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City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
January 4, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

For Records 12/25/99  
DOCUMENTS DEPT.

DEC 31 1999

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PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 765 Sutter St. #206

U001-41R  
(cont. from 11/9/99)

One tenant appeals a decision certifying capital improvement costs on the grounds of financial hardship.

B. 2244 - 2252 15th St.

U001-44A

The landlord appeals the decision partially certifying capital improvement costs.

C. 4220 Cesar Chavez

U001-57R thru -68R

Twelve tenants appeal the decision certifying capital improvement costs.

D. 105 Grattan St.

U001-42A

The Master Tenant appeals the decision granting a claim of unlawful rent increase.

E. 2250 - 31st Ave.

U001-54R

The tenant appeals the decision denying an unlawful rent increase claim pursuant to Costa-Hawkins.



F. 1550 Fillmore St. #500

U001-55R

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

G. 1674 - 22nd Ave.

U001-45A

The landlords appeal the decision granting a claim of unlawful rent increase.

H. 1010 Bush St. #105

U001-56R

The tenant appeals the decision partially granting a claim of decreased housing services.

I. 362 Pierce St.

U001-43A

The landlord appeals the decision certifying capital improvement costs and making a determination pursuant to Rules and Regulations Section 6.14.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment





**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,** WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, January 4, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

1/4/2000  
POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

JAN 13 2000

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Justman;  
Staff Present: Lightner; Marshall; Mosser; Wasserman.  
Wolf.

Commissioner Murphy appeared on the record at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 21, 1999 with the following correction: under Director's Report, the legislation sponsored by Supervisor Ammiano would raise relocation payments to low-income tenants displaced pursuant to an Ellis eviction to \$4,500.00. However, the \$3,000 payment to elderly and disabled tenants is already required by the Ordinance. (Lightner/Gruber: 5-0)

IV. Remarks from the Public

Marcella Barron, a tenant involved in the case at 4220 Cesar Chavez (U001-57R thru -68R) informed the Board that the tenants' attorney was unable to appear at the meeting due to prior commitments. She referred to several contentions in the tenants' appeal, and informed the Commissioners that she has not received several of the recently mailed documents in the case.

V. Consideration of Appeals

A. 765 Sutter St. #206

U001-41R  
(cont. from 11/9/99)

The landlord's petition for certification of the costs of new kitchen vinyl floors and seismic upgrading of the building to 17 of 24 units was granted, resulting in a monthly passthrough in the amount of \$49.43. One tenant appealed the decision on the grounds of financial hardship. Consideration of this appeal was continued from the meeting on November 9, 1999 in order for staff to advise the tenant that a co-tenant, currently away from the unit, must also file a Hardship Application.





MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

B. 2244 - 2252 15th St.

U001-44A

The landlords' petition for certification of the costs of seismic retrofit of the building and addition of a residential and commercial parking garage was granted, in part. On appeal, the landlords claim that: the garage should not be considered a separate unit for purposes of allocation of the retrofit costs, because the estimator already removed the costs of creating the parking area when valuing the retrofit work; and the parking area is also used as a basement, and therefore is of benefit to the tenants;

MSC: To deny the appeal except to remand the case to the hearing officer for a Technical Correction regarding the effective date of the notices of rent increase. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

C. 4220 Cesar Chavez

U001-57 thru -68R

The landlord's petition for certification of capital improvement costs to 26 out of 36 units was granted, in part. Twelve tenants appeal the decision, asserting that: certain items of work were waived by the landlord at the hearing, but the costs were certified in the decision; alarms on the roof doors were not installed until after the date of the hearing; documentary evidence provided by the tenants in a prior decrease in services case prove that the work was necessitated by the current landlord's deferred maintenance; discrepancies in the estimator's report undermine the credibility of the entire report; and, to be consistent with the prior case, the fire escapes should be considered common area improvements.

MSC: To recuse Commissioner Becker from consideration of this case. (Becker/Lightner: 5-0)

MSC: To accept the appeals and remand the case to the hearing officer on the record to determine: which, if any, of the capital improvements were waived by the landlord at the hearing; whether the evidence that the roof door alarms were not installed as of the date of the hearing stands alone, or whether it needs corroboration; and to examine whether the fire escape retrofit should be treated as a common area improvement. (Marshall/Hobson: 5-0)

D. 105 Grattan St.

U001-42A

The tenant's petition alleging an unlawful rent increase was granted, and the Master Tenant was found liable to the tenant in the amount of \$372.00. The Master Tenant and tenant had resided in the unit with one other occupant. When that occupant moved out, the Master Tenant decided to restrict the occupancy of the unit to two persons only, and raised the tenant's rent to reflect a payment of 1/2 rather than 1/3 of the rent (a 49% rent increase). The Master Tenant bases her appeal on contradictions between statements made by the hearing officer at the hearing, and the ultimate Conclusions of Law reached in the Decision; alleges that both parties benefited by having fewer people living in the unit; and maintains that if the tenant had not agreed to pay the increased amount, the Master Tenant would have found another place to live.



MSC: To deny the appeal. (Gruber/Lightner: 5-0)

E. 2250 - 31st Ave.

U001-54R

The tenant's petition alleging an unlawful increase in rent from \$883.15 to \$1,750.00 based on Costa-Hawkins was denied. The subject premises is a single family dwelling with a non-conforming in-law unit. Since the entire premises was rented to the tenant, and the tenant converted the downstairs room into a day care center, the hearing officer determined that the property is exempt from Rent Board jurisdiction because it is alienable separate from the title to any other dwelling unit and the tenancy commenced after January 1, 1996. On appeal, the tenant claims that, since there are two units in the building, it is not exempt and the increase is unlawful.

MSC: To deny the appeal. (Justman/Gruber: 3-2; Becker, Marshall dissenting)

F. 1550 Fillmore St. #500

U001-55R

The landlords' petition for certification of capital improvement costs to 15 out of 52 units was granted, in part. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

G. 1674 - 22nd Ave.

U001-45A

The tenants' petition alleging an unlawful increase in rent was granted and the landlords were found liable to the tenants in the amount of \$6,433.18. On appeal, the landlords claim that: the landlord who had knowledge of the facts was sick on the day of the hearing and could not appear; the \$85.00 rent increase was actually a charge for the garage that the tenants had failed to pay for four years; and the decision contains inaccuracies put forward as facts by the tenants.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

H. 1010 Bush St. #105

U001-56R

The tenant's appeal was filed thirteen days late because the person who had the additional evidence that the tenant needed was out of town.

MSC: To find good cause for the late filing of the appeal. (Becker/Marshall: 5-0)

The tenant's petition alleging an unlawful increase in rent and substantially decreased housing services was granted and the landlord was found liable to the tenant in the amounts of \$1,059.39 and \$305.46 respectively. On appeal, the tenant submits additional evidence that purports to demonstrate long-term notice to the landlord regarding the conditions in her unit.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)





I. 362 Pierce St.

U001-43A

The landlords' petition for certification of capital improvement costs to all six units in the building was granted, in part. Additionally, a determination was made that, since the landlords had accepted rent from one of the tenants in the unit for five months prior to serving her with a notice pursuant to Rules Section 6.14, they could not increase the rent to "market" now that the last of the original tenants has vacated the unit. On appeal, the landlords submit an itemized breakdown per unit regarding the structural pest work and receipts for the cost of low-flow toilets, which costs were found to be insufficiently documented by the hearing officer. On appeal, the landlords also claim that they served the tenant with a 6.14 notice within 60 days of her moving into the unit, although the tenant says that she did not receive the notice.

MSC: As to the landlord's appeal in Case No. L980201, regarding certification of capital improvement costs: to remand the case to the hearing officer to consider the additional evidence regarding the cost of the low-flow toilets; and to allocate costs of the pest work that is structural to all units, even if the work was done in individual units. A hearing will be held only if necessary. (Lightner/Gruber: 5-0)

MSF: As to the landlord's appeal in Case No. L980194 regarding a 6.14 determination: to deny the appeal. (Becker/Marshall: Gruber, Lightner, Justman dissenting)

MSC: As to the landlord's appeal in Case No. L980194 regarding a 6.14 determination: to accept the appeal and remand the case to the hearing officer for a new hearing on the issues of waiver and estoppel and with instructions that the 5-month time period is not dispositive. (Justman/Lightner: 3-2; Becker, Marshall dissenting)

VI. Communications

The Board received a draft copy of the Appeal Decision regarding the case at 1935 Franklin Street #503 (T001-70A), heard and decided on October 19, 1999, for possible approval at the January 18th meeting. The Board also received a new copy of the Rules and Regulations, with amended Section 6.15.

VII. Director's Report

Deputy Director Wolf informed the Board that Executive Director Grubb was ill.

IV. Remarks from the Public (cont.)

The landlords involved in the case at 1674 - 22nd Ave. (U001-45A) asked what happens if someone disagrees with the Board's disposition of an appeal, and also asked how a landlord can communicate with their tenants. An individual said that his parents are giving him a one-half interest in a building so that he can move in, and asked how he should go about it.

VIII. Calendar Items

January 11, 2000 - NO MEETING



January 18, 2000

9 appeal considerations

6:30 Appeal Hearing: 2490 Bryant St.

T001-81A

(rescheduled from 12/7/99)

IX. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.



## **ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
January 18, 2000

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

DOCUMENTS DEPT.

JAN 12 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEYEO MOSSER  
BARTHOLOMEW MURPHY

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.

**V. Consideration of Appeals**

A. 768 - 9th Ave. #4

U001-48A

The landlord appeals the portion of the decision determining  
overcharges due to an unlawful rent increase.

B. 2028 Broderick St. #A

U001-49A

The landlord appeals the decision granting rent reductions due to  
second-hand smoke coming into the tenant's unit.

C. 311 - 11th Ave.

U001-69R

Six tenants appeal the decision certifying capital improvement costs;  
two on the grounds of financial hardship.

D. 434 Hickory St.

U001-47A

The landlord appeals the decision granting decreased housing services  
claims only as to one of two units.

E. 725 Monterey Blvd.

U001-46A

The landlord appeals the portion of the decision partially granting  
certification of capital improvement costs.

F. 1615 Jones St.

U001-50A



The landlord appeals the decision partially granting claims of decreased housing services.

G. 381 - 22nd Ave.

U001-51A

The landlord appeals the decision granting a rent reduction due to the landlord's refusal to allow a replacement roommate.

H. 400 Hyde St., Apt. 507

U001-52A

The landlord appeals the remand decision granting a tenant's claim of financial hardship.

I. 3015 Van Ness Ave. #6

U001-77R

The tenant appeals the decision denying a claim of unlawful rent increase.

VI. Appeal Hearing

6:30 2490 Bryant St.

T001-81A  
(post. from 12/7/99)

The landlords appealed the decision determining rent overpayments, alleging that the subject unit is commercial, and not residential.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

XI. Calendar Items

XII. Adjournment







**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, MAYOR**

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, January 18, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**I. Call to Order**

LARRY BEACH BECKER Vice-President Marshall called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

**Roll Call**

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSE

BARTHOLOMEW MURPHY

Commissioners Present: Gruber; Hobson; Lightner; Marshall.  
Commissioners not Present: Becker; Bierly; Mosser; Murphy;  
Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:27 p.m.

**III. Approval of the Minutes**

DOCUMENTS DEPT.

MSC: To approve the Minutes of January 4, 2000.  
(Gruber/Lightner: 4-0)

JAN 25 2000

**IV. Consideration of Appeals**

SAN FRANCISCO  
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A. 768 - 9th Ave. #4

U001-48A

The tenant's petition alleging substantial decreases in housing services during a period of construction work was denied. The landlord's consolidated petition for certification of capital improvement costs was granted. However, the hearing officer determined that a rent increase given in 1993 exceeded limitations and the landlord was found liable to the tenant in the amount of \$400.61. On appeal, the landlord asks that the Board reconsider his liability for the one unlawful increase, since he has charged the tenant less than the maximum allowed throughout the tenancy.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

B. 311 - 11th Ave.

U001-69R

The landlord's petition for certification of the cost of seismic retrofit of the building was granted, resulting in a \$25.44 monthly passthrough to the tenants in 8 units. One tenant appeals the decision on the grounds of financial hardship; one other tenant asserts that the Board's hardship criteria is too stringent, and that a tenant's rent should not exceed 1/4 of their monthly income. All of the tenants claim that there were insufficient invoices provided to substantiate the costs of the work; and that, for purposes of allocation, a hallway was excluded when assessing the size of a commercial unit in the building.



MSC: To grant the appeal of the tenant in unit #9 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Gruber/Hobson: 4-0)

MSC: To deny the individual appeal of the tenant in unit #5.  
(Gruber/Lightner: 4-0)

MSC: To deny the joint appeal filed by the tenants in eight units.  
(Lightner/Gruber: 3-1; Hobson dissenting)

C. 434 Hickory St.

U001-47A

Two tenant petitions alleging substantially decreased housing services were granted and the landlord was found liable to one of the tenants in the amount of \$9,920.00 and \$9,180.00 to the other. The landlord appeals as to one of the units only, asserting that: the tenant failed to give notice to the landlord regarding the defective conditions in his unit and communicated only satisfaction with the premises; the tenant had been the on-site manager of the building, and is estopped from claiming rent reductions during that period of time; any claims from the period prior to February, 1996 were dissolved pursuant to the landlord's filing for bankruptcy at that time; the Notice of Violation relied on by the hearing officer pre-dates the tenancy; and the tenant's claims are barred by the applicable Statute of Limitations.

MSC: To accept the appeal and remand the case to the hearing officer for a hearing on the bankruptcy issue and to explore which, if any, of the repairs were part of the tenant's managerial responsibilities.  
(Lightner/Gruber: 3-2; Hobson, Marshall dissenting)

D. 725 Monterey Blvd.

U001-46A

The landlords' petition for rent increases for nine of eleven units based on increased operating expenses was denied due to insufficient documentation of the aggregate expenses for the building over a two-year period. A consolidated petition for certification of capital improvement costs for ten of the eleven units was granted, in part. On appeal, the landlord provides copies of two post-hearing submissions documenting capital improvement costs which were not received by the hearing officer.

MSC: To accept the appeal and remand the case to the hearing officer to examine the additional evidence submitted with the landlord's appeal; a hearing will be held only if necessary.  
(Lightner/Gruber: 5-0)

E. 1615 Jones St.

U001-50A

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$250.00 due to a cracked and peeling kitchen ceiling and walls. The landlord appeals on the grounds that: no capital improvement costs have been passed through to the tenant; the tenant failed to provide access in order for the landlord to effectuate the repairs; the kitchen was still available for the tenant's use; the base rent amount in the Decision is incorrect; and, in a 1992 case, non-repair of a kitchen ceiling was valued at only \$20.00 per month.



MSC: To deny the appeal but to clarify that the Decision of Hearing Officer does not take away any banked increases available to the landlord for prospective imposition at a later date. (Lightner/Hobson: 5-0)

F. 381 - 22nd Ave.

U001-51A

The tenants' petition alleging a substantial decrease in housing services due to the landlord's failure to approve a replacement roommate was granted and the landlord was found liable to the tenants in the amount of \$2,688.00. On appeal, the landlord asserts that: the hearing officer was mistaken in finding that the lease agreement between the parties expressly stated that three persons could occupy the premises; the "Leno" legislation, which allows for a decrease in services rent reduction when a landlord unreasonably withholds consent to subletting even in the presence of an absolute prohibition, was not in effect at the time the instant petition was filed; and awarding penalties for the landlords' statement that the lease prohibited subletting violates the landlord's free speech rights.

MSC: To accept the appeal and remand the case to the hearing officer on the record to make appropriate adjustments to the decision due to the effective date of the Leno legislation. (Lightner/Gruber: 4-1; Hobson dissenting)

G. 400 Hyde St., Apt. 507

U001-52A

The landlord's appeal was filed two days late because the landlord was out of town for the Thanksgiving holiday.

MSC: To find good cause for the late filing of the appeal. (Gruber/Hobson: 5-0)

This case arose pursuant to a landlord petition for certification of capital improvement costs, which was granted and resulted in a monthly passthrough to the tenants in the amount of \$14.25. One tenant appealed the decision on the grounds of financial hardship. The appeal was accepted and remanded for a hearing on the hardship claim. In the Decision on Remand, the hearing officer found sufficient hardship to warrant deferral of the passthrough for a one year period from the date of issuance of the Decision, in order for the tenant's medical condition to improve or for the tenant to avail himself of public benefits to which he would be entitled. The landlord appeals the remand decision, asserting that the hearing officer granted the tenant too long a time period to apply for Social Security Disability benefits and/or Section 8, and that the effective date of the passthrough (August 1, 1998) should be reinstated.

MSC: To deny the appeal. (Hobson/Marshall: 3-2; Gruber, Lightner dissenting)

H. 3015 Van Ness Ave. #6

U001-77R

The tenant's petition alleging an unlawful increase in rent from \$1295.00 to \$1395.00 after less than one year was denied. The hearing officer found that the relevant lease provided for a \$100 monthly discount as long as the tenant was employed by the landlord and that revocation of the discount after the tenant had terminated his employment did not constitute a rent increase. The tenant appeals, claiming that:





the landlord failed to prove that \$1395 constituted the original base rent for the unit; the increase violates the Ordinance in that the amount is excessive and it occurred prior to one year of residency; the tenant felt coerced to sign the lease agreement; and, since his employment was not tied to the building in any way, his rental and work situations should not be linked.

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Marshall dissenting)

I. 2028 Broderick St. #A

U001-49A

The tenant's petition alleging a substantial decrease in housing services because of second-hand smoke coming into her unit from the unit below was granted, and the landlord was found liable to the tenant in the amount of \$520.00 (\$40 per month). On appeal, the landlord claims that: the tenant failed to prove that the problem exists; the landlord has been in the tenant's unit and did not smell cigarette smoke; the landlord provided documentary evidence from a licensed plumbing and electrical contractor; and the landlord and his witness provided credible testimony, but the hearing officer only found the tenant to be credible.

MSC: To accept the appeal and remand the case to the hearing officer to determine whether the ventilation system is connected such that smoke could and does travel from the unit below to the tenant's unit; a hearing will be held only if necessary.  
(Hobson/Marshall: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of November, 1999.

B. A new staff roster.

#### VI. Director's Report

Executive Director Grubb informed the Board that legislation raising the relocation payments to low-income tenants displaced pursuant to an Ellis eviction to \$4,500.00 will take effect on January 29th, as will legislation changing the "Hearing Officer" job title to "Administrative Law Judge."

#### VII. Remarks from the Public

The landlord involved in the appeal concerning 1615 Jones Street (U001-50A) requested clarification regarding his right to banked rent increases and expressed his opinion that the issue of second-hand smoke seems like a "nuisance case." The landlord involved in the hardship appeal concerning 400 Hyde Street (U001-52A) asked that the Board explain what deferral of a capital improvement passthrough means.

#### VIII. Calendar Items

January 25, 2000

Special Legislative Session: Rules & Regs. Section 6.14 (Costa-Hawkins)





February 1, 2000  
11 appeals

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:46 p.m.





NOTICE OF THE SPECIAL LEGISLATIVE SESSION OF  
THE SAN FRANCISCO RESIDENTIAL RENT WILLIE L. BROWN, JR.  
STABILIZATION & ARBITRATION BOARD, MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
January 25, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, Suite 320

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Old Business
- Rules and Regulations Section 6.14/Costa-Hawkins
- VI. Communications
- VII. Director's Report
- IX. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

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### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

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Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





5F



**MINUTES OF THE SPECIAL LEGISLATIVE SESSION OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIAM L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, January 25, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 320

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

FEB 0 1 2000

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:06 p.m.

SAN FRANCISCO  
PUBLIC LIBRARY

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Wasserman.  
Staff Present: Lee; Wolf.

Commissioner Hobson appeared on the record at 6:08 p.m.; Commissioners Mosser and Marshall appeared at 6:11 p.m.; Commissioner Murphy arrived at 6:20 p.m.; and Commissioner Justman appeared at 6:25 p.m. Commissioner Mosser went off the record at 6:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 18, 2000.  
(Gruber/Lightner: 5-0)

IV. Old Business

Rules and Regulations Section 6.14/Costa-Hawkins

The Board continued their discussion of how best to conform Rules Section 6.14 to the amended provisions of the Costa-Hawkins Rental Housing Act of 1995. President Wasserman began the meeting by thanking Senior Hearing Officer Tim Lee for his work on a proposed re-draft of 6.14, which greatly simplifies the language and makes more clear the Board's intent.

The new proposal contains two clear definitions of "original" and "subsequent" occupants that apply to both residents of units prior to January 1, 1996, and residents who commenced occupancy after that date. For residents who lived in a covered rental unit prior to January 1, 1996, the procedures currently codified in Section 6.14 apply, except that a landlord's failure to give a 6.14 notice within 60 days of the landlord's actual knowledge of the new tenant's presence in the unit will create a rebuttable presumption that the landlord failed to act within a reasonable period of time in asserting their right to market rent after the last original tenant vacates the premises. For tenants who commenced occupancy on or after January 1, 1996, the landlord may raise the rent to "market", unless they waive their right to do so in one of three ways: by making representations as to the tenant's right to remain in the unit at the same rent; by not issuing a rent increase or reserving the right to do so within 90 days of knowing that the last original tenant has vacated the premises; or



by receiving written notice from an original tenant that a new tenant is occupying the premises and thereafter accepting rent from that new tenant.

The Board discussed the proposal and made certain changes to address concerns expressed by several of the Commissioners. Commissioner Marshall expressed her view that the version of Section 6.14 that was in effect prior to the Section being amended to comport with Costa-Hawkins in July of 1996 should be reinstated for pre-1/1/96 tenancies. Several of the Landlord Commissioners objected to having to give notice after the departure of the last original tenant if a 6.14 notice had already been given at the inception of the tenancy, or soon after knowledge of a new tenancy. They felt that a landlord's failure to do so should not be a "gotcha"; the Tenant Commissioners felt it unfair that a landlord's issuance of such a notice would guarantee their right to raise the rent, but that failure to do so would have no repercussions.

The Board agreed to talk to their respective constituencies, and return to this discussion at the meeting on February 1st. The amended proposed language reads as follows below:

#### Reg. 614 Establishing Rental Rates for Subsequent Occupants

(1) The following terms have the following meaning for purposes of this Regulation:

(a) "Original occupant(s)" means one or more individuals who took possession of a unit with the express consent of the landlord at the time that the base rent for the unit was first established with respect to the vacant unit.

(b) "Subsequent occupant(s)" means an individual(s) who became an occupant(s) of a rental unit while the rental unit was occupied by at least one original occupant(s).

(2) When all original occupant(s) no longer permanently reside in a rental unit, the landlord may raise the rent to any subsequent occupant who resided in the unit prior to January 1, 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if the landlord served on the subsequent occupant(s), within a reasonable time of actual knowledge of occupancy, a written notice that when the last of the original occupant(s) vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. Failure to give such a notice within 60 days of the landlord's actual knowledge of the occupancy by the subsequent occupant(s) will establish a rebuttable presumption that notice was not given within a reasonable period of time.

(3) When all original occupant(s) no longer permanently reside in a rental unit, and have vacated on or after \_\_\_\_\_ (effective date), the landlord may establish a new base rent to any subsequent occupant(s) who commenced occupancy of the unit on or after January 1, 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance unless the landlord waived his or her right to increase the rent by:

(a) representing to the subsequent occupant that he/she may remain in possession of the unit at the same rental rate charged to the original occupant(s);



(b) failing, within 90 days of receipt of notice that the last original tenant is going to vacate the rental unit or of actual knowledge that the last original tenant no longer permanently resides at the unit, to serve written notice of a rent increase or a reservation of the right to increase the rent at a later date; or

(c) receiving written notice from an original occupant of the subsequent occupant's occupancy and thereafter accepting rent from the subsequent occupant.

The subsequent occupant has the burden of proving landlord waiver by a preponderance of the evidence. Any subsequent occupant(s) who permanently resides in a rental unit and who, after the last of the original tenants no longer permanently resides at the rental unit, receives notice of and pays, upon not less than 30 days prior written notice, a rent increase that is in excess of the limitations set forth in Section 37.3(a) of the Rent Ordinance shall thereafter have the protection of an original occupant as to any future rent increases.

V. Calendar Items

February 1, 2000

11 appeal considerations

Old Business: Rules and Regulations Section 6.14/Costa-Hawkins

February 8, 2000 - NO MEETING

VI. Adjournment

President Wasserman adjourned the meeting at 7:45 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
February 1, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

FOR READ 1/21/00  
DOCUMENTS DEPT.

FEB 01 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 227 - 7th St. U001-32A  
(cont. from 11/23/99)

The landlord appeals the decision granting claims of decreased housing services.

B. 331 Waller St. U001-79R

The tenant appeals the remand decision partially granting claims of decreased housing services.

C. 572 San Jose Ave. U001-78R

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

D. 807 Ashbury #6 U001-53A

The landlord appeals the decision granting certification of capital improvement costs but applying the 10% "cap" to the passthrough pursuant to Rules Section 7.12(d).

E. 1018 Mission St. U001-83R

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

F. 201 Chesnut #D U001-54A





10/5  
The landlord appeals the decision granting a claim of decreased housing services.

G. 201 Chesnut #E & F

U001-81R: U001-55A

The landlord and one tenant appeal the decision granting claims of decreased housing services.

H. 1216 - 38th Ave.

U001-56A; U001-85R

The landlord and tenant appeal the decision certifying capital improvement costs.

I. 36 Divisadero St.

U001-59A

The landlord appeals the remand decision upholding a determination of rent overpayments pursuant to the rollback provisions of Proposition I.

J. 3149 California St. #2E

U001-81R

The tenant appeals the dismissal of her petition due to her failure to appear at the remand hearing.

K. 801 Jones, Apt. 311

U001-82R

The tenant appeals the decision granting a rent increase based on comparables on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

Rules and Regulations Section 6.14/Costa-Hawkins

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment



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R52  
2/1/00  
c.2

City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, February 1, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT

I. Call to Order

FEB 1 0 2000

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:10 p.m. SAN FRANCISCO  
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Marshall;  
Mosser; Murphy; Wasserman.  
Commissioners not Present: Hobson; Justman.  
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of January 18, 2000.  
(Becker/Lightner: 5-0)

IV. Consideration of Appeals

A. 572 San Jose Ave.

U001-78R

The landlord's petition for certification of capital improvement costs to one of two units was granted, resulting in a monthly passthrough in the amount of \$52.48. The tenant appeals on the grounds of financial hardship.

MSC: To deny the appeal. (Gruber/Lightner: 3-2; Becker, Marshall dissenting)

B. 807 Ashbury #6

U001-53A

The landlord's petition for certification of capital improvement costs to one out of six units was granted, resulting in a monthly passthrough in the amount of \$166.24. The landlord appeals, asserting that: he should not be restricted to the imputed interest rate, since the work was financed with a loan at the rate of 10.5%; imposition of the 10% cap on the passthrough contained in Rules Section 7.12(d) denies him a fair return on his investment, is unconstitutional and sufficient extraordinary circumstances exist in this case to warrant relief from the cap; he is entitled to make a profit on the capital improvement investment, in addition to recovering the costs; and a "zero dollar return" on capital improvements constitutes a taking.

After discussion, it was the consensus of the Board to continue this case in order for the Administrative Law Judge to provide the Commissioners with a Memorandum explaining why she was unable to trace the loan proceeds to payment for the capital





improvement work; for staff to provide calculations as to the length of time it would take to phase in the passthrough if the cap were increased to 12 or 15%; for the tenant to furnish information regarding her claim of financial hardship should the amount of the passthrough be increased; and for the parties to provide a copy of the 1992 Decision regarding a comparables increase for this unit, if available. This case will be put on the March 21st Board meeting calendar.

C. 201 Chesnut #D

U001-54A

The tenant's petition alleging substantial decreases in housing services was granted only as to full use of the deck, and the landlord was found liable to the tenant in the amount of \$1,500.00. On appeal, the landlord claims that the subject housing service is not a "deck" but, rather, a walkway provided for cleaning the windows and use as storage.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

D. 201 Chesnut #E & F

U001-55A; U001-81R

The tenant's appeal was filed almost two months late because, at the time the decision was issued, the tenant had no way of knowing that the landlord would continue to deny her the right to have a replacement roommate.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Becker: 5-0)

The tenants' petitions alleging substantial decreases in housing services were granted, in part. Both tenants were granted monthly rent reductions in the amount of \$100.00 due to loss of use of their decks, and the tenant in unit #F was granted a prospective \$100 rent reduction from such time as he vacates the garage; the tenant in unit #E was granted a \$100.00 monthly rent reduction for loss of one parking space, as well as having her rent halved for a twelve-month period during which the landlord withdrew the right to sublet. On appeal, the landlord maintains that the tenant in unit #E was never rented more than one off-street parking space, which she still has; that tandem parking at the subject property is illegal; that the tenant voluntarily gave up the tandem space for the parking space she now has; and that the tenant has failed to pay rent for use of the garage since July of 1999. As to the tenant in unit #F, the landlord alleges that he received a carport space of equal value. The landlord additionally claims that the subject decks are merely walkways meant to be used for window cleaning; and that the rent reductions are proscribed by the Golden Gateway decision. As to the rent reduction for loss of the right to sublet, the landlord claims that the tenant had no right to have additional roommates prior to service of the notice of change of terms of tenancy; and that the original lease included non-waiver language. The tenant in unit #E also appeals, claiming that the rent reduction should be continuing, because the landlord has failed to respond to her repeated requests for permission to obtain a roommate.

MSC: To accept the tenant's appeal and remand the case for a hearing on the issue of whether the rent reduction for the landlord's unreasonable withholding of consent to a replacement roommate should be continuing. To accept the landlord's appeal and remand the case to the Administrative Law Judge on the following issues, which shall be consolidated with the hearing on the tenant's appeal:



to determine whether the facts in this case regarding the tandem parking spaces are the same as those in Case No. T990303 and, if so, to make the Conclusions consistent with those in Case No. T990303; to determine whether the storage spaces were merely swapped, and to consider the allegations raised in the landlord's appeal as to this issue; to issue a Technical Correction as to the amount owing to the tenant in unit #F; and to deny the landlord's appeal on the deck and subletting claims.  
(Wasserman/Marshall: 4-1; Gruber dissenting)

E. 1216 - 38th Ave.

U001-56A: U001-85R

The landlord's petition for certification of capital improvement costs to one of two units was granted, resulting in a monthly passthrough in the amount of \$35.84. On appeal, the landlord asserts that the 6-Month Rule (Rules Section 7.12{b}) should be waived because the tenant himself requested that the new kitchen sink and counter be installed. The tenant appeals on the grounds of financial hardship; claims that the rear exterior siding should not have been certified because of the landlord's deferred maintenance; and asserts that the landlord is forcing him to remove his possessions from the back yard.

MSC: To accept the landlord's appeal and remand the case for a hearing only on the issue of whether the tenant asked for the kitchen sink and counter work to be done and, if so, the 6-Month Rule shall not apply; to deny the appeals as to all other issues.  
(Marshall/Becker: 5-0)

F. 36 Divisadero St.

U001-80R

The tenant's petition alleging unlawful rent increases was granted and the landlord of this Proposition I Affected Unit was found liable to the tenant in the amount of \$7,858.00. On appeal, the landlord asserted: that the increase was lawful at the time it was given; that it was issued prior to the retroactive rollback provisions of Proposition I; and that it is an impermissible penalty to declare a rent increase invalid if it was proper at the time of service of the notice of rent increase. At the meeting on April 6, 1999, the landlord's appeal was accepted and the case was remanded to consider any equitable issues. The Decision on Remand upholds the original decision, because the Administrative Law Judge held that the landlord had presented no evidence or legal basis on which to alter the original decision on equitable grounds. The landlord again appeals, asserting that: Proposition I was improperly retroactive in that it impaired an existing contractual relationship and deprived the landlord of a vested right; State law provides that a landlord who acts in good faith shall not be penalized for failure to comply with a rent control Ordinance; and the Decision is unfair and creates a hardship for the landlord.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

G. 3149 California St. #2E

U001-81R

The tenant's petition alleging a substantial decrease in housing services due to inadequate heat was granted, and the landlord was found liable to the tenant in the amount of \$275.00. On appeal, the landlord maintained that the Decision contained misstatements of fact and errors of law; that a Notice of Violation from the Department of Building Inspection had to do with conditions that did not affect the supply of heat to the unit; and that the tenant should not be considered credible due



to a history of alleged harassment toward management and other tenants in the building. The landlord's appeal was accepted and remanded for a new hearing in order for the tenant to meet her burden of proving the heat to have been deficient. The tenant's petition was subsequently dismissed due to her failure to appear at the properly noticed remand hearing. On further appeal, the tenant provides documentation that her attorney had a scheduled jury trial at the same time as the remand hearing; contends that her request for postponement should have been granted; and argues that the landlord's original appeal was untimely and, therefore, the Original Decision of Hearing Officer should be reinstated.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Marshall: 4-1; Gruber dissenting)

H. 801 Jones, Apt. 311

U001-82R

The landlord's petition for a rent increase from \$190.00 to \$674.17 based on comparable rents was granted. The tenant appeals on the grounds of financial hardship, and also asserts that the tape recordings of the two hearings in this matter are defective, and that documents are missing from the files.

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Becker dissenting)

I. 227 - 7th St.

U001-32A  
(cont. from 11/23/99)

The tenant's petition alleging decreased housing services in this live/work unit was granted, in part, and the landlord was found liable to the tenant in the amount of \$5,530.00. On appeal, the landlord explained his failure to appear at the hearing because of a pressing business commitment; and asserted that the relevant lease agreement between the parties is commercial and places responsibility for certain repairs on the tenant.

After discussion, it was the consensus of the Board to continue consideration of this case in order for staff to contact the landlord and obtain a Declaration Under Penalty of Perjury and documentation regarding the alleged business commitment that prevented him from appearing at the hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Lightner/Gruber: 5-0)

J. 331 Waller St.

U001-79R

The tenant's petition alleging substantially decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$917.50 through April 1999, the last month the tenant paid rent. On appeal, the tenant claims that: the street door to the premises still has not been fixed; notice was provided to the landlord regarding the problem with the front door pursuant to the Notice of Violation issued by the Department of Building Inspection; and the Administrative Law Judge's valuations regarding lack of security and bathing facilities are not commensurate with the extent of the problems.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)





K. 1018 Mission St.

U001-83R

The tenant's petition alleging a substantial decrease in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that his landlord does not give him his mail, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Marshall: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The Board's approval of the appeal decision concerning the case at 1935 Franklin St. #503 (T001-70A) was continued to the next meeting.

B. A copy of an updated Commissioners' Roster.

VI. Director's Report

Executive Director Grubb informed the Board that the amendments to the Ordinance regarding revised Ellis procedures and changing the Hearing Officer designation to Administrative Law Judge took effect on January 29, 2000. The amendments increasing relocation payments to low-income tenants displaced pursuant to an Ellis eviction will take effect on February 13, 2000.

VII. Old Business

Rules and Regulations Section 6.14/Costa-Hawkins

Commissioner Murphy expressed his opinion that the most recent proposed re-draft of Section 6.14 strays too far from Costa-Hawkins, and he questioned why the Board had ceased to consider the draft that he had distributed prior to Christmas. He distributed a new proposal, which he represented as mirroring the language of Costa-Hawkins. The Board agreed to calendar another Special Legislative Session to discuss this issue, which will be held on March 14th.

VIII. Remarks from the Public

A. Dennis Hyde, the attorney for the prior owner of the property at 201 Chesnut St. (U001-54 & -55A), said that the Board should amend the rent law to make it clear that a tenant can only have one residence; and re-stated several of the contentions that he had raised in his appeals.

B. The tenants involved in the case at 36 Divisadero (U001-59A) expressed their gratitude for the Board's denial of the landlord's appeal of the remand decision, but were upset that the Commissioners had discussed a lawsuit as an option for the landlord, since that would just make the case drag on longer.

IX. Calendar Items

February 8, 2000 - NO MEETING





February 15, 2000  
9 appeal considerations

X. Adjournment

President Wasserman adjourned the meeting at 8:20 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, 6:00 p.m.,  
February 15, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

AGENDA

FEB 10 2000

SAN FRANCISCO  
PUBLIC LIBRARY

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
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NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 3250 Market St. U001-57A

The landlord appeals the decision certifying capital improvement costs.

B. 2238 Hyde St. #3 U001-87R

One tenant appeals the decision certifying capital improvement costs.

C. 117A & 119A Bartlett St. U001-88 & -89R  
& U001-58A

The landlord and the tenants in two units appeal the decision granting claims of decreased housing services and certifying capital improvement costs.

D. 236-1/2 San Jose Ave. U001-86R

The tenant appeals the decision certifying capital improvement costs on the grounds of prospective hardship.

E. 1439 Ocean Ave. #2 AT2K0002

The tenant appeals the decision denying claims of decreased housing services.

F. 350 Funston Ave. AT2K0004



The tenants appeal the decision granting certification of capital improvement costs.

G. 486 Funston Ave. #302

AL2K00003

The landlord appeals the decision denying a petition for rent increase based on comparable rents.

H. 6674 - 3rd St. #D

AT2K0005

The tenant appeals the dismissal of a petition alleging decreased housing services due to her failure to appear at the hearing.

I. 163 Eastwood Dr.

AL2K0006

The landlord appeals the decision granting claims of decreased housing services, alleging non-receipt of notice of hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

Proposed Budget for 2000-01

X. Calendar Items

XI. Adjournment



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Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

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Ray Cabezas, has been designated to coordinate and carry out this agency’s compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.







**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, February 15, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:12 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Justman; Lightner;  
Marshall; Mosser; Murphy; Wasserman.  
Commissioners not Present: Hobson.  
Staff Present: Grubb; Wolf.

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III. Approval of the Minutes

MSC: To approve the Minutes of February 1, 2000.  
(Becker/Lightner: 5-0)

MAR - 7 2000

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IV. Consideration of Appeals

A. 3250 Market St.

U001-57A

The landlord's petition for certification of capital improvement costs to three of five units was granted, in part. The landlord appeals, maintaining that: permit application fees should have been certified; and amounts expended for the repair of water leaks in two of the units should have been certified as incidental to the capital improvement work.

MSC: To accept the appeal and remand the case to the  
Administrative Law Judge on the record to certify the costs of  
the permit fees only. (Gruber/Lightner: 5-0)

B. 117A & 119A Bartlett St.

U001-85 & -89R;  
U001-58A

This consolidated case involves two tenant petitions alleging decreased housing services; two petitions seeking certification of capital improvement costs for two of five units; and one landlord petition for base rent increases for two units based on increased operating expenses. The landlord's capital improvement costs were certified. However, the petition based on allegedly



increased operating expenses was denied because the Administrative Law Judge found that repairs performed in order to abate a Notice of Violation were one-time expenditures and the time periods chosen produced exaggerated results. The tenant petitions were granted, in part, and the landlord was found liable in the amounts of \$550.00 and \$580.00, respectively, due to loss of quiet enjoyment during a period of construction work on the premises. Both the landlord and tenants appeal the decision. The landlord claims that the Rules and Regs. do not preclude one-time expenditures from being the basis for an O&M increase; and that the time periods chosen were those immediately prior to the filing of the petition. He also asserts that the tenant petitions were filed only to harass the landlord; that his request for the petitions to be heard separately was denied, resulting in a hostile and intimidating atmosphere; that the vacant unit being readied for re-rental was quieter than had it been occupied; that one of the allegedly affected units is separated from the rest of the building by a double wall, and would not have been as affected; and that there are many factual errors in the decision. The tenants allege that the documentation provided by the landlord in support of his petition is suspect; that a contractor's license was illegally used by workers not entitled to do so; that the cost of some of the repairs is inflated; that some of the claimed work was not actually done; and that some of the work was necessitated by the landlord's deferred maintenance.

MSC: To deny both the landlord's and tenants' appeals.  
(Becker/Marshall: 5-0)

C. 236-1/2 San Jose Ave.

U001-86R

The landlord's petition for certification of the costs of legalizing one unit were granted, in part, resulting in a total monthly passthrough in the amount of \$534.25, subject to the 10% cap. The tenant appeals, asking that she be allowed to reserve her right to a future hardship claim at such time as she no longer can afford to pay the increase.

After discussion, it was the consensus of the Board to continue this appeal in order for staff to contact the tenant and obtain additional information regarding her financial situation.

D. 1439 Ocean Ave. #2

AT2K0002

The tenant's petition alleging decreased housing services because of the current owner's failure to mow the lawn, and maintain the garden and yard area of the property was denied. On appeal, the tenant asserts that: the estimates provided by the landlord of the cost of yard maintenance are unrealistic; she does not have exclusive use of the yard, since the downstairs tenant also has access; the overgrown condition of the yard constitutes a fire and safety hazard; and the lease provision that appears to place responsibility for upkeep of the yard on the tenant is subject to interpretation.

MSC: to deny the appeal. (Gruber/Lightner: 5-0)



E. 350 Funston Ave.

AT2K0004

The tenants' appeal was filed sixteen days late because they were out of the country at the time the Decision was issued.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Gruber: 5-0)

The landlord's petition for certification of capital improvement costs to two units was granted, in part, resulting in a monthly passthrough in the amount of \$67.41. Additionally, rent overpayments were determined for both units. The tenants in one unit appeal, claiming that: the landlord's petition was defective and should have been administratively dismissed; the tenants did not benefit from the window repair and those costs should not have been allocated to their unit; the exterior painting costs should have been amortized over ten years; and the landlord's notice of rent increase was defective and should have been determined to be null and void.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

F. 486 Funston Ave. #302

AL2K0003

The landlord's petition for a rent increase based on comparable rents was denied. The tenant is the son of the original occupant of the unit, who has resided in the unit since 1973. On appeal, the landlord argues that: there is no authorization in the Ordinance for making building-wide determinations as to fair return; State law requires that the petitioner be allowed to prove comparable rents at the time the unit came under rent control; the tenant's mother's controlled rent ought not to be passed on to her son, regardless of when he began occupancy of the unit; Rules Section 6.14 is inapplicable, as the subject tenancy commenced many years prior to the enactment of that Section; and, at a minimum, the petitioner should be allowed to offer evidence as to market rent for such units in 1979, with the allowance of compounded annual increases since that time.

MSC: To recuse Commissioner Wassermann from consideration of this case. (Marshall/Gruber: 5-0)

MSC: To accept the appeal and remand the case for a hearing to determine whether the threshold requirement for a rent increase based on comparables has been met; if the only evidence in support of the rent increase is market rent levels in 1979, then the Decision of the Administrative Law Judge shall be affirmed. (Becker/Marshall: 5-0)

G. 6674 - 3rd St., Apt. D

AT2K0005



The tenant's petition alleging substantially decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant alleges that an emergency meeting at work prevented her appearance.

After discussion, it was the consensus of the Board to continue this case in order for staff to contact the tenant and obtain documentation of the work-related conflict that prevented her from appearing at the hearing.

H. 163 Eastwood Dr.

AL2K0006

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$4,221.00 due to lack of heat in the tenant's unit. Additionally, rent overpayments in the amount of \$1,100.00 were determined to be owing from the landlord to the tenant. On appeal, the landlord claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Gruber: 4-1; Marshall dissenting)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Rent Ordinance effective February 13, 2000 containing recent amendments regarding Ellis evictions and the change in job title from Hearing Officer to Administrative Law Judge.

B. A copy of the appeal decision in the case concerning 1935 Franklin St. #503 (T001-70A), heard and decided on October 19, 1999. Prior to discussion of this matter, the following motion was made:

MSC: To recuse Commissioners Lightner and Becker from consideration of this case. (Becker/Gruber: 5-0)

After incorporating suggestions made by Commissioner Murphy, President Wasserman signed the Decision following the Board's approval pursuant to the below motion:

MSC: To approve the appeal decision in the case at 1935 Franklin Street #503 (T001-70A). (Marshall/Justman: 4-0)

#### VI. Remarks from the Public

A. Kevin Johnson, the tenant involved in the case at 350 Funston St. (AT2K0004), expressed his view that the Board had failed to follow the





mandatory language of the Rules and Regulations in their disposition of his appeal.

B. Mae Young, the landlord in the above-referenced case at 350 Funston, explained to the Board that she had made a mistake in her notice of rent increase, but that she had since tried to rectify it.

C. Dimitri Agaroff, the tenant in the case at 486 Funston Ave. #302, informed the Board that he was 32 years old at the time he moved into the unit, and stated that he had started paying rent well prior to 1973, when his mother died.

#### VII. New Business

Executive Director Grubb informed the Board that the only changes in this year's budget request will be the addition of two clerical positions. The Commissioners then voted as follows:

MSC: To approve the Department's budget proposal as represented by the Executive Director. (Gruber/Becker: 5-0)

#### VIII. Calendar Items

February 22 & 29, 2000 - NO MEETINGS

March 7, 2000 - NO MEETING (Election Day)

March 14, 2000

Special Legislative Session: Rules Section 6.14/Costa-Hawkins

#### IX. Adjournment

President Wasserman adjourned the meeting at 7:45 p.m.





NOTICE OF THE SPECIAL LEGISLATIVE SESSION OF  
THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

March 14, 2000  
25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Old Business

Rules and Regulations Section 6.14/Costa-Hawkins

- VI. Communications

- VII. Director's Report

- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- VIII. New Business

- IX. Calendar Items

- X. Adjournment

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MAR - 7 2000

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MINUTES OF THE SPECIAL LEGISLATIVE WILLIE L. BROWN, JR.  
SESSION OF THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, March 14, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

MAR 31 2000

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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSE  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:15 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Lightner;  
Marshall; Murphy; Wasserman.  
Commissioners not Present: Mosser.  
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 15, 2000.  
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Miguel Wooding of the Tenants' Union told the Board of an owner move-in eviction attempt that he personally fought, although his prior roommates vacated the unit. He believes that in situations such as these, the unit should be covered by the vacancy control provisions of Costa-Hawkins.

B. Robert Haalland of the Harvey Milk Gay Democratic Club told the Board that many gays and lesbians live in revolving roommate situations and any amendments to Rules Section 6.14 will have a major impact on those communities.

C. Karen Cromey of the Small Property Owners' Group asked that the Commissioners clarify which versions of proposed amendments to Rules Section 6.14 they would be discussing.

D. Tenant Heidi Klein asked that the Commissioners adopt the "least destructive version."





E. Tenant Laura Hicks informed the Board that she was "constructively evicted" due to a Costa-Hawkins rent increase.

V. Old Business

Rules and Regulations Section 6.14/Costa-Hawkins

The Board continued their discussion of various draft proposals attempting to conform Rules and Regulations Section 6.14 to the requirements of the Costa-Hawkins Rental Housing Act. The discussion centered on a draft proposal put forth by President Wasserman which maintains most of the elements of current Rule 6.14 except that the landlord is given a "reasonable" period of time from actual knowledge of the new occupancy in which to serve a 6.14 notice, with 60 days rebuttably presumed to be reasonable. As for post-1/1/96 occupants, the landlord is given 90 days from actual knowledge of their presence in the unit to either raise the rent or reserve the right to do so, unless it is proved that the landlord had waived the right to do so in any of four ways.

Commissioner Murphy expressed concerns that the Wasserman draft "dilutes Costa-Hawkins", which is explicit as to only one form of waiver. Commissioner Lightner felt that the Rule still contains a notice requirement not found in Costa-Hawkins, it is just 90 days rather than 60; she also felt that the burden should be on the departing tenant to inform the landlord. The Landlord Commissioners expressed concerns that staff would interpret "actual knowledge" to mean the landlord "should have known." President Wasserman reiterated her desire for landlords and tenants to have clear, easy to understand procedures to follow, in order that everyone know where they stand and so that the agency not be burdened with holding hearings on the issues of waiver and estoppel in the majority of these cases.

Commissioners Becker and Marshall then introduced an amended version of President Wasserman's draft, which defines occupants of a unit who are there pursuant to an agreement with the landlord but haven't been served with a 6.14 notice as co-tenants. Co-tenants who have not received 6.14 notices within a reasonable period of time would have all the rights of an original tenant.

The Commissioners engaged in further discussion, made certain changes to the language and voted as follows below:

MSC: To put suggested amendments to Rules and Regulations  
Section 6.14 out for Public Hearing on April 25, 2000.  
(Justman/Marshall: 5-0)



Please note that the entire section is new and proposes to replace the current language of 6.14. The proposed language reads as follows below:

Section 6.14 **Establishing Rental Rates for Subsequent Occupants**

(Added March 7, 1989; amended August 29, 1989; Subsection (e) added February 14, 1995; repealed and adopted April 25, 1995, effective February 14, 1995; Subsections (a), (b), (c), (d) and (e) amended and renumbered July 2, 1996)

(a) **Definitions.** The following terms have the following meaning for purposes of this Section 6.14:

(1) "Original occupant(s)" means one or more individuals who took possession of a unit with the express consent of the landlord at the time that the base rent for the unit was first established with respect to the vacant unit.

(2) "Subsequent occupant" means an individual who became an occupant of a rental unit while the rental unit was occupied by at least one original occupant.

(3) "Co-tenant" for purposes of this Section 6.14 only, is a subsequent occupant who has a rental agreement directly with the owner.

(b) **Subsequent Occupants who commenced occupancy before 1/1/96; Co-tenants who commenced occupancy before, on or after 1/1/96.** When all original occupant(s) no longer permanently reside in the rental unit, the landlord may raise the rent of any subsequent occupant who resided in the unit prior to January 1, 1996, or of any subsequent occupant who is a co-tenant and who commenced occupancy



1 before, on or after January 1, 1996, without regard to the limitations set forth  
2 in Section 37.3(a) of the Rent Ordinance if the landlord served on the  
3 subsequent occupant(s), within a reasonable time of actual knowledge of  
4 occupancy, a written notice that when the last of the original occupant(s)  
5 vacates the premises, a new tenancy is created for purposes of determining  
6 the rent under the Rent Ordinance. Failure to give such a notice within 60  
7 days of the landlord's actual knowledge of the occupancy by the subsequent  
8 occupant(s) establishes a rebuttable presumption that notice was not given  
9 within a reasonable period of time. If the landlord has not timely served such  
10 a notice on the subsequent occupant(s), a new tenancy is not created for  
11 purposes of determining the rent under the Rent Ordinance when the last of  
12 the original occupant(s) vacates the premises.

13 **(c) Subsequent Occupants who are not Co-tenants and**  
14 **who commenced occupancy on or after 1/1/96, where the last**  
15 **Original Occupant vacated on or after \_\_\_\_\_. When all original**  
16 **occupant(s) no longer permanently reside in a rental unit, and the last of the**  
17 **original occupants vacated on or after \_\_\_\_\_ (effective date), the landlord**  
18 **may establish a new base rent of any subsequent occupant(s) who is not a**  
19 **co-tenant and who commenced occupancy of the unit on or after January 1,**  
20 **1996 without regard to the limitations set forth in Section 37.3(a) of the Rent**  
21 **Ordinance unless the subsequent occupant proves that the landlord waived**  
22 **his or her right to increase the rent by:**

23 (1) Affirmatively representing to the subsequent occupant  
24 that he/she may remain in possession of the unit at the same  
25 rental rate charged to the original occupant(s); or

26 (2) Failing, within 90 days of receipt of written notice that the  
27 last original occupant is going to vacate the rental unit or actual  
28 knowledge that the last original occupant no longer  
permanently resides at the unit, whichever is later, to serve



written notice of a rent increase or a reservation of the right to increase the rent at a later date; or

(3) Receiving written notice from an original occupant of the subsequent occupant's occupancy and thereafter accepting rent unless, within 90 days of said acceptance of rent, the landlord reserved the right to increase the rent at a later date.

Where the landlord has waived the right to increase the rent under subsection (c)(1) or (c)(3) above, the subsequent occupant to whom the representation was made or from whom the landlord accepted rent shall thereafter have the protection of an original occupant as to any future rent increases under this Section 6.14. Where the landlord has waived the right to increase the rent under subsection (c)(2) above, any subsequent occupant who permanently resides in the rental unit with the actual knowledge and consent of the landlord (if the landlord's consent is required and not unreasonably withheld) at the time of the waiver shall thereafter have the protection of an original occupant as to any future rent increases under this Section 6.14.

**(d) Subsequent Occupants who are not Co-tenants and who commenced occupancy on or after 1/1/96, where the last Original Occupant vacated prior to \_\_\_\_\_. When all original occupants no longer permanently reside in a rental unit and the last of the original occupants vacated prior to \_\_\_\_\_ (effective date), the landlord may establish a new base rent for any subsequent occupants who are not co-tenants and who commenced occupancy of the unit on or after January 1, 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if:**

(1) The landlord served on the subsequent occupant(s), within a reasonable time of actual knowledge of occupancy, a





written notice that when the last of the original occupants vacates the premises, the new tenancy is created for purposes of determining the rent under the Rent Ordinance. Failure to give such a notice within 60 days of the landlord's actual knowledge of the occupancy by the subsequent occupant(s) establishes a rebuttable presumption that notice was not given within a reasonable period of time; or

(2) The landlord is entitled to establish a new base rent under the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.53(d), even if no notice was served on the subsequent occupant(s) pursuant to subsection (d)(1) above.

**(e) Subsequent Occupants of Proposition I Affected**

**Units.** When all original occupant(s) no longer permanently reside in a Proposition I Affected Unit, the landlord may raise the rent of any subsequent occupant who resided in the unit prior to February 15, 1995 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if the landlord served on the subsequent occupant(s), on or before August 15, 1995, a written notice that when the last of the original occupant(s) vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. If the landlord has not timely served such a notice on the pre-February 15, 1995 subsequent occupant(s) of the Proposition I Affected Unit, a new tenancy is not created for purposes of determining the rent under the Rent Ordinance when the last of the original occupant(s) vacates the premises. For subsequent occupants who commenced occupancy in a Proposition I Affected Unit on or after February 15, 1995, the provisions of subsections (a) through (d) above apply.

(f) This Section 6.14 is intended to comply with Civil Code Section 1954.50 et seq. and shall not be construed to enlarge or diminish rights thereunder.



VI. Director's Report

Executive Director Grubb reminded the Commissioners to get their Conflict of Interest forms in to the Ethics Commission by April 1st.

IV. Remarks from the Public (cont.)

E. Miguel Wooding expressed his belief that the Board is considering passing regulations that are not allowed by the Rent Ordinance or Costa-Hawkins, without "fact-based findings."

F. Laura Hicks said that she believed that landlords had a greater responsibility to know and understand the law since they have a significant investment at stake.

VII. Calendar Items

March 21, 2000

10 appeal considerations (1 cont. from 2/1/00; 2 cont. from 2/15/00)

March 28, 2000 - NO MEETING

VIII. Adjournment

President Wasserman adjourned the meeting at 9:15 p.m.





MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, March 21, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Vice-President Marshall called the meeting to order at 6:11 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Hobson; Justman;  
Lightner; Marshall; Mosser.  
Commissioners not Present: Murphy.  
Staff Present: Grubb; Wolf.

President Wasserman appeared on the record at 6:13 p.m.

III. Consideration of Appeals

A. 807 Ashbury #6

U001-53A  
(cont. from 2/1/00)

The landlord's petition for certification of capital improvement costs to one out of six units was granted, resulting in a monthly passthrough in the amount of \$166.24. The landlord appealed, asserting that: he should not be restricted to the imputed interest rate, since the work was financed with a loan at the rate of 10.5%; imposition of the 10% cap on the passthrough contained in Rules Section 7.12(d) denies him a fair return on his investment, is unconstitutional and sufficient extraordinary circumstances exist in this case to warrant relief from the cap; he is entitled to make a profit on the capital improvement investment, in addition to recovering the costs; and a "zero dollar return" on capital improvements constitutes a taking.

After discussion, it was the consensus of the Board to continue this case in order for the Administrative Law Judge to provide the Commissioners with a Memorandum explaining why she was unable to trace the loan proceeds to payment for the capital improvement work; for staff to provide calculations as to the length of time it would take to phase in the passthrough if the cap were increased to 12 or 15%; for the tenant to furnish information regarding her claim of financial hardship should the amount of the passthrough be increased; and for the parties to provide a copy of the 1992 Decision regarding a comparables increase for this unit, if available.



MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

B. 236-1/2 San Jose Ave.

U001-86R  
(cont. from 2/15/00)

The landlord's petition for certification of the costs of legalizing one unit were granted, in part, resulting in a total monthly passthrough in the amount of \$534.25, subject to the 10% cap. The tenant appeals, asking that she be allowed to reserve her right to a future hardship claim at such time as she no longer can afford to pay the increase.

After discussion, it was the consensus of the Board to continue this appeal in order for staff to contact the tenant and obtain additional information regarding her financial situation.

MSC: To recuse Commissioner Marshall from consideration of this appeal. (Becker/Justman: 5-0)

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

C. 6674 - 3rd St., Apt. D

AT2K0005  
(cont. from 2/15/00)

The tenant's petition alleging substantially decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant alleged that an emergency meeting at work prevented her appearance.

After discussion, it was the consensus of the Board to continue this case in order for staff to contact the tenant and obtain documentation of the work-related conflict that prevented her from appearing at the hearing. Nothing further was submitted by the tenant.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

D. 2112 Baker St.

AT2K0007 & -08

The landlords' petition for certification of the costs of painting and reconstruction of the exterior facade of the building to the tenants in two of three units was granted. On appeal, the tenants claim that: post-hearing evidence submitted in support of the petition was not sworn to under penalty of perjury; the landlords should not have been given additional time to augment their petition, especially as the record was not reopened in order for the tenants to respond; one of the competing contractor's proposals refers to work that had not been done at the time, which proves that the proposals were obtained afterwards; only one door viewer was installed, but the tenants were charged for two; the tenants are not required for furnish evidence of their socioeconomic status in order for prevail





on an objection that the work constitutes "luxury items"; the work was done without permits; and most of the work was unnecessary "gold plating" for which the costs are excessive.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to allow the tenants to respond to the landlords' December 1, 1999 post-hearing submission; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

E. 709 Geary #204, 206, 207, 405, 410

AL2K0009

The landlord's petition for certification of capital improvement costs to 23 of 39 units was granted. On appeal, the landlord's representative asserts that a typographical error as to five tenants' move-in dates resulted in erroneous applications of the 6-Month Rule. He asks that the case be remanded to the Administrative Law Judge in order for corrections to be made to the Decision.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for corrections as to the tenants' move-in dates and application of the 6-Month Rule, if warranted. The tenants shall be served with a copy of the amended petition and given an opportunity to raise objections to the capital improvements, if any. A hearing will be held only if necessary. (Gruber/Lightner: 5-0)

F. 6200 California #2

AT2K0010

The landlord's petition for certification of capital improvement costs to 3 of 4 units was granted, in part. Additionally, a tenant petition alleging unlawful rent increase was granted, and rent overpayments in the amount of \$1,733.13 were determined to be owing from the landlord to the tenant. The tenant appeals the capital improvement portion of the decision, claiming that: an independent estimator should have been hired to determine whether the costs were reasonable; the landlord submitted minimal documentation in support of the petition; the permit taken out by the contractor was for a lesser amount than that petitioned for; the dry rot repair, exterior painting and window replacement were necessitated by deferred maintenance; and the costs of the garage doors should have been allocated to four, rather than three, units.

MSF: To accept the appeal and remand on the issue of the garage door allocation; also, to obtain an estimator's report as to the value of the work and hold a hearing only if there is more than a 10% discrepancy between the estimator's valuation and the landlord's petitioned-for costs. (Becker/Marshall: 2-3; Justman; Gruber, Lightner dissenting)

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record for a correction



regarding the garage door allocation only. (Lightner/Gruber:  
4-1; Marshall dissenting)

G. 563 Columbus Ave.

AL2K0011

The tenant's petition was denied as to an allegation of unlawful rent increase. A claim of decreased housing services due to the lack of a heating source in the unit since the inception of the tenancy was granted, however, and the landlord was found liable to the tenant in the amount of \$13,200.00. The landlord appeals, claiming that the Administrative Law Judge failed to take into account the provisions of the lease that state that the premises are in "good working order" and a written settlement agreement between the parties.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

H. 2245 Chesnut St.

AL2K0012

The tenant's petition alleging an unlawful increase in rent from \$1,581.84 to \$2,800.00 per month based on the provisions of Costa-Hawkins regarding sublessees and assignees was granted. On appeal, the landlord argues that: the landlord's acceptance of rent from the tenant, who commenced occupancy after January 1, 1996, did not constitute waiver because she had not received written notice of his presence in the unit and thereafter accepted rent; the tenant failed to receive the landlord's consent to his tenancy pursuant to the provisions of the lease, and therefore is a subtenant or assignee of the prior tenant, rather than a co-tenant; and the facts in this case typify the relief envisioned by the passage of the Costa-Hawkins Rental Housing Act.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions that a new tenancy was created and the rent increase was warranted. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

I. 1977 Pine St.

AL2K0014

The tenant's petition alleging decreased housing services was granted due to the loss of the right to have guests park in the garage on the premises and the landlord was found liable to the tenant in the amount of \$80.00 per month or \$480.00. The landlord appeals, asserting that: the amount of the rent reduction is too high a penalty for disallowing guest parking "once or twice a month"; the length of time granted by the Administrative Law Judge was longer than the actual period of the reduction in services; and the landlord and tenant have worked out a viable arrangement to deal with the problem.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

J. 1074-1076 Carolina

AL2K0015



7/6  
The landlord's petition for certification of substantial rehabilitation was dismissed due to the landlord's failure to meet the threshold requirements of Rules and Regulations Section 8.12. On appeal, the landlord asks that the Board waive many of the procedural provisions of the Rules, with which he will be unable to comply; otherwise, he will sell the building to tenants-in-common buyers.

After discussion, it was the consensus of the Board to continue consideration of this case to the meeting on May 2nd out of concern that the landlord may have thought that he would be able to make arguments in support of his appeal at tonight's meeting; and to give him an opportunity to do so in writing.

#### IV. Communications

The Commissioners received a copy of proposed new Rules and Regulations Section 6.14, which will be the subject of a Public Hearing on April 25th.

#### V. Director's Report

Executive Director Grubb reminded the Commissioners that their Statement of Economic Interest forms are due by April 3rd, and that they are now on the payroll as City employees. He also informed them that the legislation sponsored by Supervisor Amos Brown authorizing a Housing Study passed First Reading at the Board of Supervisors on Monday, March 20th. Deputy Director Wolf informed the Board that a Writ challenging Rules Section 6.15 was filed by Attorney Steven Rosenthal (Danekas v. Rent Board, Superior Court Case No. 310104), and that Mr. Rosenthal personally served President Wasserman at her home on a Sunday morning. As the Commissioners found this personally and professionally objectionable, as well as unnecessary, they authorized Ms. Wolf to ask the Office of the City Attorney to explore whether there is some way to preclude such behavior in the future.

#### VI. Remarks from the Public

Andy Braden, the landlord's representative in the case at 709 Geary (AL2K0009), thanked the Board for allowing him to fix a mistake and inquired as to whether there was some way to do so without the necessity of filing an appeal. Tenant Christopher Slingsby of 2112 Baker Street (AT2K0007 & -08) commended the Board on their balance and fair-mindedness.

#### VII. Calendar Items

March 28, 2000 - NO MEETING

April 4, 2000

9 appeal considerations

#### VIII. Adjournment

President Wasserman adjourned the meeting at 7:37 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
April 4, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

16x 3/20/00  
DOCUMENTS DEPT.

MAR 31 2000

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 338 Kirkham St. #3 AL2K0013

The landlord appeals the decision granting claims of decreased housing services.

B. 309 Steiner St., Apt. D AL2K0016

The landlord appeals the decision granting a claim of unlawful rent increase on the grounds that the increase is allowed pursuant to Costa-Hawkins.

C. 1800-1806 - 16th Ave. AL2K0017

The landlord appeals the dismissal of a petition for rent increase based on comparable rents.

D. 2246 - 47th Ave. AL2K0018

The landlord appeals the decision denying a rent increase based on Costa-Hawkins.

E. 1461 Hyde St. AL2K0019

The landlord appeals the decision granting a claim of unlawful rent increase pursuant to Rules Section 6.14 and Costa-Hawkins.

F. 730 Stockton St. #43 AL2K0020





The landlord appeals the remand decision determining rent overpayments due to the landlord's failure to discontinue a capital improvement passthrough.

G. 132 Peralta Ave.

AT2K0021

The landlord appeals the dismissal of his petition for certification of capital improvement costs because the loan that funded the work does not need to be repaid until title to the property changes.

H. 656 O'Farrell #304

AT2K0022

The tenant appeals the remand decision that reduces but does not eliminate a capital improvement passthrough on the grounds of financial hardship.

I. 544 Clayton St.

AL2K0023

The landlord appeals the decision granting a rent reduction due to denial of the right to a replacement roommate pursuant to Rules Section 6.15.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment



## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

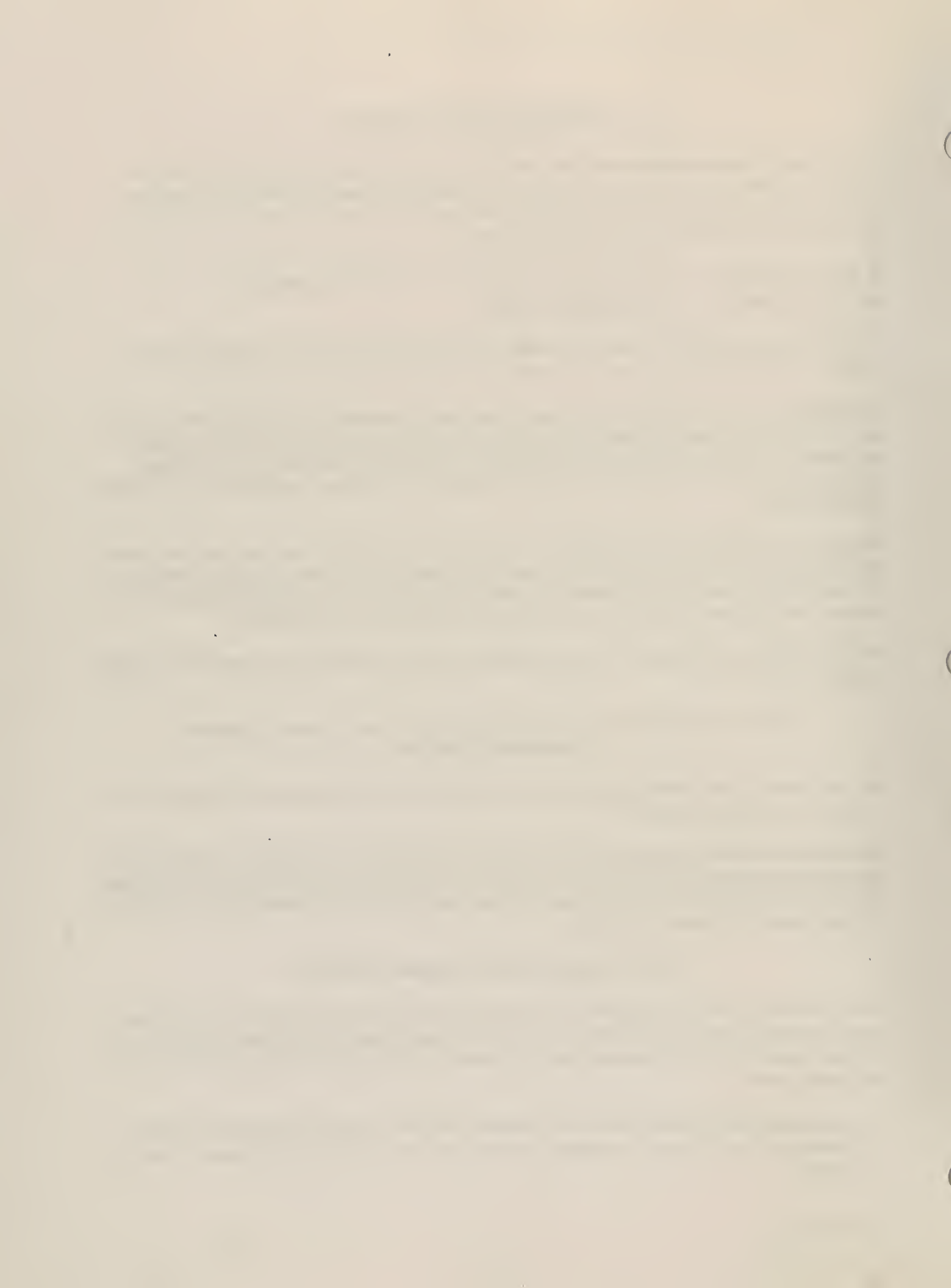
The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, MAYOR**

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, April 4, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

I. Call to Order

APR 17 2000

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:11 p.m.

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PUBLIC LIBRARY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Justman; Lightner;  
Marshall; Mosser; Murphy; Wasserman.  
Grubb; Wolf.

Staff Present:

Commissioner Hobson appeared on the record at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 14, 2000.  
(Becker/Marshall: 5-0)

Approval of the Minutes from the meeting on March 21st was put over to the next meeting as some of the Commissioners had not had a chance to read them.

IV. Remarks from the Public

Attorney Steve Rosenthal, involved in the case at 544 Clayton St. (AL2K0023), stated his opinion that the Board should take advantage of the presence of the parties at the time of an appeal consideration, as the courts do, for purposes of eliciting additional information and/or argument.

V. Consideration of Appeals

A. 309 Steiner St., Apt. D

AL2K0016

The tenant's petition alleging an unlawful increase in rent from \$1,584.42 to \$1,700.00 was granted and the landlord was found liable to the tenant in the amount of \$1,155.80. The Administrative Law Judge (ALJ) found that the exemption contained in the Costa-Hawkins Rental Housing Act for separately alienable condominium units was inapplicable to this tenancy because the landlord allowed the tenant to enter into this revolving roommate tenancy which commenced prior to January 1, 1996; the tenant was not a sublessee or assignee but, rather, a co-tenant who had a written agreement directly with the landlord as of March 1997; and the tenant resided in the unit commencing in September 1995. Additionally, it was determined that the landlord waived his right to a market rent increase pursuant to Rules Section 6.14 because, after the last original tenant had vacated the unit, the



landlord imposed two annual rent increases and entered into two new leases with the petitioner. On appeal, the landlord maintains that: the tenancy or sub-tenancy was not approved by the landlord until after January 1, 1996, and there was no express contractual relationship between the parties until the signing of the 1997 lease; since failure to timely serve a 6.14 notice results in the landlord consenting to the tenancy, the service of a 6.14 notice on the instant tenant indicates that the landlord did not consent to the tenancy; and the rent increase was served pursuant to the provisions of Costa-Hawkins, and the Administrative Law Judge had no authority to make a ruling on the applicability of Rules Section 6.14.

MSF: To deny the appeal. (Becker/Marshall: 2-3; Gruber, Justman, Lightner dissenting)

MSC: To accept the appeal and remand the case for a hearing to determine whether the tenant was an approved tenant or sub-tenant prior to January 1, 1996. (Becker/Lightner: 5-0)

B. 1800-1806 - 16th Ave.

AL2K0017

The landlord's petition for rent increases to the tenants in two units based on comparables was dismissed. The tenants are beneficial owners of the trust that was created by the will to own the property. The Special Title-Holding Trustee and co-executors of the estate intend to sell the property, and wish to begin collecting rent from one of the tenants and raise the rent of the other in order to obtain a higher sales price. The Administrative Law Judge found, however, that the issue is not ripe for adjudication until the Probate Court determines whether the decedent's intent was to permit the beneficiaries to occupy the property rent-free and/or whether the Special Title-Holding Trustee has the power or authority to charge or raise the tenants' rents. On appeal, the Trustee claims that: the Rent Board should determine whether it has jurisdiction over this property or not, and deciding that the issue is not "ripe" merely begs the question; since the tenants meet the definition of "tenant" under the Ordinance, all of the provisions of the law should apply, including those pertaining to rent increases based on comparables -- otherwise, petitioner should be free to remove the "non-tenant occupants" without Just Cause; the ALJ misunderstood the provisions of the decedent's will; the Probate Court has already issued a final order in this matter, and the concerns raised by the ALJ were not addressed; if the decedent intended to establish life estates for the tenants, he would have done so; and the case should merely be postponed so that the petitioner can obtain a statement from the Probate Court.

MSC: To recuse Commissioners Lightner and Becker from consideration of this appeal. (Murphy/Gruber: 5-0)

MSC: To find that the Rent Board has jurisdiction over this property and to hold a hearing on the landlord's comparables petition. (Murphy/Gruber: 3-2; Hobson, Marshall dissenting)

C. 2246 - 47th Ave.

AL2K0018

The tenant's petition alleging an unlawful increase in rent from \$1,030.00 to \$1,800.00 was granted. The Administrative Law Judge found that the increase was not warranted pursuant to the provisions of Costa-Hawkins because, although the unit is a single family dwelling, the tenant moved into an existing tenancy that pre-dated 1996; and the landlord had a direct landlord-tenant relationship with the petitioner,





who was therefore not a subtenant or assignee. On appeal, the landlord maintains that: the ALJ erred in finding that the tenant was neither a subtenant nor assignee, which are the only two recognized mechanisms for the transfer of a tenancy; that, since the last original tenant broke the lease and evidenced no intent to retain any rights to the tenancy, the instant tenant is an assignee of the prior tenant's rights and did not become a party to the pre-1996 lease; and subsequent to the last original tenant having vacated the unit, the instant tenant was no longer a co-tenant but, rather, a new tenant or assignee of the prior tenant.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to find that the rent increase is valid.  
(Lightner/Gruber: 3-2; Becker, Marshall dissenting)

D. 1461 Hyde St.

AL2K0019

The tenant's petition alleging an unlawful increase in rent from \$468.90 to \$1,050.00 was granted because the Administrative Law Judge found that the increase was not warranted under the provisions of Costa-Hawkins nor Rules Section 6.14. The tenant moved into the unit in 1981, but always paid her share of the rent to a family member, who forwarded it to the landlord. It was therefore determined that she was a lawful subtenant who resided in the unit prior to January 1, 1996; and it is undisputed that the prior landlord knew of her presence in the unit, but failed to give a notice pursuant to Rules Section 6.14. On appeal, the landlord argues that: the tenant was never approved by the prior or current landlord, and is an unapproved subtenant; an owner should be allowed to raise the rent, rather than evict, once the last original tenant has vacated a rental unit; and Rules and Regulations Section 6.14 is inapplicable because it was adopted 8 years after the tenant purportedly moved into the unit.

MSC: To deny the appeal. (Becker/Marshall: 3-2;  
Gruber, Lightner dissenting)

E. 730 Stockton St. #43

AL2K0020

The tenant's petition alleging that the landlord had failed to discontinue a capital improvement passthrough and included it in base rent when calculating annual increases was granted and the landlord was found liable to the tenant in the amount of \$3,134.92. Upon appeal by the landlord, the case was remanded to the Administrative Law Judge to find that a rent increase given in 1990 was not null and void if the amount did not equal more than the annual allowable rent increase, even if the notice was technically defective. Accordingly, in the Decision on Remand, the overpayment amount was reduced to \$2,364.90. After the landlord filed a Writ of Administrative Mandamus on the grounds that he had been denied the right to cross-examine the tenant regarding documents submitted post-hearing, the case was reopened in order for him to do so. The Decision remained substantively unchanged although amounts owing from the landlord to the tenant were adjusted to account for offsets taken by the tenant. The landlord again appeals, claiming that: the Findings in the Decision differ in important respects from testimony given at the hearing; since the tenant had not challenged the rent increase, the landlord should not have the burden of proving it not to be excessive; the .78% overage was most likely attributable to a PG&E passthrough; and contradictions in the tenant's testimony should impinge on his credibility.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)



F. 544 Clayton St.

AL2K0023

The tenants' petition alleging a substantial decrease in housing services due to the landlord's failure to allow a replacement roommate pursuant to Rules Section 6.15 was granted and the landlord was found liable to the tenants in the amount of \$2,000.00. The landlord appeals, asserting that: the Decision is based on the recently enacted "Leno" amendment to the Ordinance, which was not yet in effect; the "Leno" amendment was not intended to be given retroactive application, which would impair contractual rights and violate substantive due process; the ALJ misinterpreted Rules Section 6.15; the Decision is inconsistent with a recent ruling of the Rent Board Commissioners in a substantially similar case; the tenants never had a right to sublet the premises; and the applicable Statute of Limitations is 3 years, when the change in terms occurred over 7 years ago.

MSC: To deny the appeal. (Becker/Marshall: 3-2;  
Gruber, Lightner dissenting)

G. 131 Peralta Ave.

AT2K0021

The landlord's petition for certification of the costs of a new roof was dismissed without hearing pursuant to Rules Section 11.16(a). The landlord had financed the work through a Code Enforcement Rehabilitation Fund (CERF) loan, which does not incur interest, and for which there are no required payments until title to the property changes. On appeal, the landlord asserts that the special nature of the loan should be taken into account, as the work was adequately documented and programs such as these serve to maintain the rental housing stock.

MSC: To accept the appeal and remand the case for a hearing on the petition. If the passthrough is approved, it shall be held in abeyance until the debt is repaid, either through sale of the property or refinancing. The passthrough, if any, shall be imposed on these tenants only. (Becker/Gruber: 5-0)

H. 656 O'Farrell #304

AT2K0022

The landlord's petition for certification of capital improvement costs to the tenants in fourteen units was granted. The tenants in 3 units appealed on the grounds of financial hardship and the cases were remanded for hearing. The instant tenant's claim was partially granted, and the passthrough was reduced from \$57.19 to \$30.00 per month, and the effective date was delayed until August 1, 2000. The tenant appeals the remand decision, claiming that: he is turning 65 years of age in July and will be receiving SSI as of that date; the landlord has refused to allow the tenant to get a roommate to share the rent; and the tenant will soon be undergoing major surgery, which may make it impossible for him to continue working.

MSC: To accept the appeal and remand the case for a hearing to explore the issues raised on appeal. (Becker/Lightner: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of February, 2000.



B. A copy of an Initiative being circulated by the Housing Rights Committee which would limit capital improvement passthroughs.

C. A letter from a tenant at the North Point Apartments regarding retention of a rental deposit.

VII. Director's Report

Executive Director Grubb informed the Commissioners that Room 408 in City Hall has been reserved from 6:00 to 9:00 p.m. for the April 25th Public Hearing on proposed amendments to Rules and Regulations Section 6.14. President Wasserman also asked that interpreters be provided.

VIII. Calendar Items

April 11 & 18, 2000 - NO MEETINGS

April 25, 2000

6:00 Public Hearing: Rules & Regs. Section 6.14/Costa-Hawkins  
(Room 408, City Hall)

May 2, 2000

8 appeal considerations (1 cont. from 3/21/00; 1 cont. from 4/4/00)

XI. Adjournment

President Wasserman adjourned the meeting at 8:30 p.m.





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APR - 7 2000

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WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

## NOTICE OF PUBLIC HEARING

DATE: April 25, 2000

TIME: 6:00 P.M.

PLACE: City Hall, Room 408  
1 Carlton B. Goodlett Place  
SAN FRANCISCO, CALIFORNIA

### PROPOSED AMENDMENTS TO RULES AND REGULATIONS SECTION 6.14

The Rent Stabilization and Arbitration Board Commissioners are proposing amendments to Section 6.14 of the Rules and Regulations. This language is intended to conform this section of the Rules and Regulations with state law provisions.

Written comments may be submitted prior to the hearing. Persons wishing to respond should do so by noon Wednesday April 19, 2000, to ensure that the Commissioners have time to consider submissions. Oral testimony will also be taken on the 25<sup>th</sup>. Speakers will be limited to three minutes each.







Please note that the entire section is new and proposes to replace the current language of 6.14. The proposed language reads as follows below:

Section 6.14 **Establishing Rental Rates for Subsequent Occupants**

(Added March 7, 1989; amended August 29, 1989; Subsection (e) added February 14, 1995; repealed and adopted April 25, 1995, effective February 14, 1995; Subsections (a), (b), (c), (d) and (e) amended and renumbered July 2, 1996)

(a) **Definitions.** The following terms have the following meaning for purposes of this Section 6.14:

(1) "Original occupant(s)" means one or more individuals who took possession of a unit with the express consent of the landlord at the time that the base rent for the unit was first established with respect to the vacant unit.

(2) "Subsequent occupant" means an individual who became an occupant of a rental unit while the rental unit was occupied by at least one original occupant.

(3) "Co-tenant" for purposes of this Section 6.14 only, is a subsequent occupant who has a rental agreement directly with the owner.



(b) **Subsequent Occupants who commenced occupancy before 1/1/96; Co-tenants who commenced occupancy before, on or after 1/1/96.** When all original occupant(s) no longer permanently reside in the rental unit, the landlord may raise the rent of any subsequent occupant who resided in the unit prior to January 1, 1996, or of any subsequent occupant who is a co-tenant and who commenced occupancy before, on or after January 1, 1996, without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if the landlord served on the subsequent occupant(s), within a reasonable time of actual knowledge of occupancy, a written notice that when the last of the original occupant(s) vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. Failure to give such a notice within 60 days of the landlord's actual knowledge of the occupancy by the subsequent occupant(s) establishes a rebuttable presumption that notice was not given within a reasonable period of time. If the landlord has not timely served such a notice on the subsequent occupant(s), a new tenancy is not created for purposes of determining the rent under the Rent Ordinance when the last of the original occupant(s) vacates the premises.

(c) **Subsequent Occupants who are not Co-tenants and who commenced occupancy on or after 1/1/96, where the last Original Occupant vacated on or after \_\_\_\_\_. When all original occupant(s) no longer permanently reside in a rental unit, and the last of the original occupants vacated on or after \_\_\_\_\_ (effective date), the landlord may**



1 establish a new base rent of any subsequent occupant(s) who is not a co-  
2 tenant and who commenced occupancy of the unit on or after January 1,  
3 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent  
4 Ordinance unless the subsequent occupant proves that the landlord waived  
5 his or her right to increase the rent by:

6  
7 (1) Affirmatively representing to the subsequent occupant  
8 that he/she may remain in possession of the unit at the same  
9 rental rate charged to the original occupant(s); or  
10

11  
12 (2) Failing, within 90 days of receipt of written notice that the  
13 last original occupant is going to vacate the rental unit or actual  
14 knowledge that the last original occupant no longer permanently  
15 resides at the unit, whichever is later, to serve written notice of a  
16 rent increase or a reservation of the right to increase the rent at  
17 a later date; or  
18

19  
20 (3) Receiving written notice from an original occupant of the  
21 subsequent occupant's occupancy and thereafter accepting rent  
22 unless, within 90 days of said acceptance of rent, the landlord  
23 reserved the right to increase the rent at a later date.  
24

25 Where the landlord has waived the right to increase the rent under subsection  
26 (c)(1) or (c)(3) above, the subsequent occupant to whom the representation  
27  
28



1 was made or from whom the landlord accepted rent shall thereafter have the  
2 protection of an original occupant as to any future rent increases under this  
3 Section 6.14. Where the landlord has waived the right to increase the rent  
4 under subsection (c)(2) above, any subsequent occupant who permanently  
5 resides in the rental unit with the actual knowledge and consent of the  
6 landlord (if the landlord's consent is required and not unreasonably withheld)  
7 at the time of the waiver shall thereafter have the protection of an original  
8 occupant as to any future rent increases under this Section 6.14.  
9

10 (d) **Subsequent Occupants who are not Co-tenants and who**  
11 **commenced occupancy on or after 1/1/96, where the last Original**  
12 **Occupant vacated prior to \_\_\_\_\_.** When all original occupants no  
13 longer permanently reside in a rental unit and the last of the original  
14 occupants vacated prior to \_\_\_\_\_ (effective date), the landlord may  
15 establish a new base rent for any subsequent occupants who are not co-  
16 tenants and who commenced occupancy of the unit on or after January 1,  
17 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent  
18 Ordinance if:  
19  
20

21 (1) The landlord served on the subsequent occupant(s),  
22 within a reasonable time of actual knowledge of occupancy, a  
23 written notice that when the last of the original occupants  
24 vacates the premises, the new tenancy is created for purposes  
25 of determining the rent under the Rent Ordinance. Failure to  
26  
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1 give such a notice within 60 days of the landlord's actual  
2 knowledge of the occupancy by the subsequent occupant(s)  
3 establishes a rebuttable presumption that notice was not given  
4 within a reasonable period of time; or

5  
6 (2) The landlord is entitled to establish a new base rent  
7 under the Costa Hawkins Rental Housing Act, California Civil  
8 Code Section 1954.53(d), even if no notice was served on the  
9 subsequent occupant(s) pursuant to subsection (d)(1) above.  
10

11 (e) **Subsequent Occupants of Proposition I Affected Units.**

12 When all original occupant(s) no longer permanently reside in a Proposition I  
13 Affected Unit, the landlord may raise the rent of any subsequent occupant  
14 who resided in the unit prior to February 15, 1995 without regard to the  
15 limitations set forth in Section 37.3(a) of the Rent Ordinance if the landlord  
16 served on the subsequent occupant(s), on or before August 15, 1995, a  
17 written notice that when the last of the original occupant(s) vacates the  
18 premises, a new tenancy is created for purposes of determining the rent  
19 under the Rent Ordinance. If the landlord has not timely served such a notice  
20 on the pre-February 15, 1995 subsequent occupant(s) of the Proposition I  
21 Affected Unit, a new tenancy is not created for purposes of determining the  
22 rent under the Rent Ordinance when the last of the original occupant(s)  
23 vacates the premises. For subsequent occupants who commenced  
24  
25  
26  
27  
28



1 occupancy in a Proposition I Affected Unit on or after February 15, 1995, the  
2 provisions of subsections (a) through (d) above apply.

3  
4 (f) This Section 6.14 is intended to comply with Civil Code Section  
5 1954.50 et seq. and shall not be construed to enlarge or diminish rights  
6 thereunder.  
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**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
April 25, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

**City Hall, Room 408**

**AGENDA**

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Old Business

**6:00 Public Hearing: Rules and Regulations Section 6.14**

VI. Communications

VII. Director's Report

IV. Remarks from the Public (cont.)

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

VIII. New Business

IX. Calendar Items

X. Adjournment

4/14/00  
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APR 17 2000

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SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, MAYOR**

Tuesday, April 25, 2000 at 6:00 p.m. at  
City Hall, Room 408

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

MAY - 4 2000

**I. Call to Order**

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:12 p.m.

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**II. Roll Call**

Commissioners Present: Becker; Bierly; Hobson; Lightner; Marshall;  
Mosser; Murphy; Wasserman.  
Commissioners not Present: Gruber.  
Staff Present: Gartzman; Grubb; Wolf.

Commissioner Justman appeared on the record at 6:32 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of March 21st and April 4th, 2000.  
(Mosser/Lightner: 5-0)

**IV. Old Business**

Rules and Regulations Section 6.14

Commencing at 6:14 p.m., the Board held a Public Hearing on proposed revisions to Rules and Regulations Section 6.14 in order to conform that Section with Costa-Hawkins (Civil Code Section 1954.53) Thirty-two individuals, sixteen tenants or tenant representatives and sixteen landlords or landlord representatives, spoke as follows below:

1. Robert Pender of the Tenants' Network said that the proposed revisions are "unfair" and will lead to the eviction of roommates due to "technicalities."

2. Michelle Horneff, President of the Professional Property Managers' Association, expressed her disappointment that the new regulation is "more confusing than what we already have." She thanked the Commissioners for all their hard work but said that using new terms, even if only for this section of the Regs., is confusing.

3. Tenant representative Joseph Patrick Michael Lacey told the Board that he should have shot Jim Costa years ago, and remarked on how nice it was to see everyone again.



4. Tenant David Foley told the Board that he previously lived in an area without rent control, and his rent went up \$500 in one year. Now, since he moved into his present unit after January, 1996 and the original tenant is leaving, he is facing another large rent increase which will force him to move again.

5. Landlord Andrew Long said that the proposal is a "step in the right direction", but could be simplified, and that revolving roommates lead to no turnover and no revenue for landlords to fix up their buildings.

6. Tenant Kennedy Helm found the proposal to be "quite complicated" and said that it will lead to evictions. Mr. Helm asked why a landlord should be able to reserve their right to a future rent increase.

7. Tenant Gary Gregerson works at the ARC, a non-profit organization providing services to the developmentally disabled, where he makes \$21,000 per year. Mr. Gregerson fears that individuals who work for non-profit social service providers will be unable to afford to remain in San Francisco.

8. Landlord Teresa Gonio informed the Board that she "doesn't have to follow these laws"; she asserted that she never has, and never intends to. She contended that a tenant could bring in "Jack the Ripper" as a replacement roommate.

9. Tenant Stanley Lamantagne says he also works in the non-profit sector at very low wages and has a roommate who will be moving out.

10. Rebecca Graf of the Housing Rights Committee told the Board that her organization counsels over 200 tenants per month and that roommates are a big issue. She believes that the current 6.14 allows for stability, but that the proposed changes go beyond the requirements of Costa-Hawkins. She asked that tenants living in units with the knowledge of the landlord and without 6.14 notices be protected.

11. Quintin Mecke from Supervisor Ammiano's Office read a statement from the Supervisor asking that the Board not contribute to San Francisco's housing crisis by forcing long-term residents into subtenancy status.

12. Miguel Wooding of the Tenants' Union and Eviction Defense Collaborative said that the proposed amendments are "slightly less bad" than prior versions. He told the Board that there is no justification for a rent increase in excess of the annual allowable amount without a hearing initiated by the landlord; that the pre-Costa-Hawkins version of 6.14 should be reinstated for pre-1/1/96 tenants; and that family members should automatically have the status of co-tenants.

13. Landlord Bill Quan said that the amendments contain notice requirements not found in Costa-Hawkins; that the proposal makes it too easy for a landlord to "inadvertently waive rights"; and that some sections sound contradictory.

14. Landlord Sonia Ng informed the Board that she belongs to a brand new association of homeowners. She believes that the proposed revisions are "unfair and unconstitutional."

15. Prop I Landlord Marian Halley expressed her view that the requirement of "actual knowledge sets up a game of hide and seek." She believes that this condition is "not business-like and will lead to litigation."



16. Prop I Landlord W. E. Winn, Jr. stated that regulation has reduced the number of small rentals that are available. He said that the "Solomon-like regulation" should require written notification.

17. Prop I Landlord Nancy Tucker also said that the regulation should require written notification from tenants, otherwise, she finds out that there is a new person living in her building by "running into them in the garage." She expressed her view that a 6.14 notice and the departure of the last original tenant renders a unit "legally vacant", which obviates the need for a hearing.

18. Brenton Holland, manager of the Fox Plaza Apartments, asked what happens if the last original tenant has already vacated, but more than 90 days have passed and the landlord has not noticed an increase nor reserved their right to do so. He also asked if the apartment were not the tenant's principal place of residence, would that mean they were no longer "permanently residing" on the premises?

19. Jeff Woo of the Tenants' Union remarked on the extent of the housing crisis and asked why there are so many landlords if it's "such a hardship."

20. Tom Ramm of the Small Property Owners' Group (SPOG) said that no other agreements allow for a change in the parties to the agreement without it being put in writing. Since landlords are required to document everything in writing, tenants should also be required to do so.

21. Landlord Peter Chin said that he is concerned about tenants as well as landlords, but said the choice is between "over-regulation" and increasing the supply of housing.

22. Janan New of the S.F. Apartment Association thanked the Board for the time and energy they've put into the proposed amendments, but asked for guidance from the Board in terms of implementation.

23. Shawn O'Hearn said that the Ellis Act, etc. has "deconstructed rent control"; that landlords have a right to know who lives in their units, but not to "wreak havoc"; and said he is not sympathetic with how much work it is to make money.

24. Kim Stryker of SPOG said that tenants get to enjoy the benefits of rent control while they live in a unit but, once they leave, the landlord should get market rent. She asked that the law be kept simple.

25. Landlord George Wong said that landlords are afraid to come to the Rent Board because they believe that the Board protects tenants, but that the amended Rule seems "more in favor of landlords."

26. Tenant Deetje Boler expressed a wish that no legislation be passed that would make anyone unable to afford housing. She suggested that the Board go to the Mayor and Board of Supervisors and ask them to lobby the Federal government for additional housing funds.

27. Landlord Tommy Tong told the Board that he spent \$20,000 to repair his unit and that the water bill is extremely high, but that the tenants don't pay it and therefore don't care.





28. Tenant Fran Taylor told the Board that she had been evicted twice for owner-occupancy and said that "achieving a vacancy shouldn't be the goal" because a home is more important than more money.

29. Tenant Mani Niall is a recent arrival who pays his rent to a Master Tenant who says that the landlord doesn't want to know who the tenants are.

30. Chris Daley of Mission Agenda informed the Board that, because of the housing crisis, the Mission is no longer predominantly Latino and said that the diverse fabric of San Francisco is being threatened. He asked that the Commissioners "comply with Costa-Hawkins but don't go overboard." He suggested that they lobby Sacramento.

31. Landlord Robert Barbagelata told the Board that he has a tenant who lives somewhere else but comes back to the unit 3-4 days per month and has a friend or relative living there. He asked that the Board define "permanent residence" in the regulation.

32. Tenant Lisa Williams stated that the burden of proof regarding the issuance of a 6.14 notice mostly falls on tenants already; that landlords should know who lives in their units; and that 60 days for issuance of the notice is reasonable.

Upon conclusion of the public testimony at 7:26, President Wasserman closed the hearing and reminded those assembled that amendments to Rules Section 6.14 were necessitated by changes in State law, to which local law must conform. Commissioner Lightner expressed a preference for not creating a new definition of "co-tenant", since many people think they know what is meant by that term, and could be confused. In order to stay consistent with the terms "original occupant" and "subsequent occupant", the term "co-occupant" was settled on for those persons who did not move in at the inception of the tenancy, but have the same rights as original occupants because of the direct relationship they have with the landlord. Commissioner Hobson stated his belief that written notice should be required as a benefit to both tenants and landlords. Commissioner Becker asked that the definition of "co-occupant" be changed to read "a subsequent occupant who has a rental agreement under California law directly with the owner (additions underlined). The Board then voted as follows:

MSC: To approve the proposed amendments to Rules and Regulations Section 6.14 with the following change: under Section (a) **Definitions**, and wherever else that term is used in Section 6.14, the term "co-tenant" shall now be "co-occupant."  
(Lightner/Mosser: 3-2; Becker, Marshall dissenting)

New Section 6.14, effective April 25, 2000, reads as follows below:

Section 6.14 **Establishing Rental Rates for Subsequent Occupants**  
(Added March 7, 1989; amended August 29, 1989; Subsection (e) added February 14, 1995; repealed and adopted April 25, 1995, effective February 14, 1995; Subsections (a), (b), (c), (d) and (e) amended and renumbered July 2, 1996; amended in its entirety April 25, 2000)

(a) **Definitions.** The following terms have the following meaning for purposes of this Section 6.14:





(1) "Original occupant(s)" means one or more individuals who took possession of a unit with the express consent of the landlord at the time that the base rent for the unit was first established with respect to the vacant unit.

(2) "Subsequent occupant" means an individual who became an occupant of a rental unit while the rental unit was occupied by at least one original occupant.

(3) "Co-occupant" for purposes of this Section 6.14 only, is a subsequent occupant who has a rental agreement directly with the owner.

(b) **Subsequent Occupants who commenced occupancy before 1/1/96; Co-occupants who commenced occupancy before, on or after 1/1/96.** When all original occupant(s) no longer permanently reside in the rental unit, the landlord may raise the rent of any subsequent occupant who resided in the unit prior to January 1, 1996, or of any subsequent occupant who is a co-occupant and who commenced occupancy before, on or after January 1, 1996, without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if the landlord served on the subsequent occupant(s), within a reasonable time of actual knowledge of occupancy, a written notice that when the last of the original occupant(s) vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. Failure to give such a notice within 60 days of the landlord's actual knowledge of the occupancy by the subsequent occupant(s) establishes a rebuttable presumption that notice was not given within a reasonable period of time. If the landlord has not timely served such a notice on the subsequent occupant(s), a new tenancy is not created for purposes of determining the rent under the Rent Ordinance when the last of the original occupant(s) vacates the premises.

(c) **Subsequent Occupants who are not Co-occupants and who commenced occupancy on or after 1/1/96, where the last Original Occupant vacated on or after 4/25/2000.** When all original occupant(s) no longer permanently reside in a rental unit, and the last of the original occupants vacated on or after 4/25/2000, the landlord may establish a new base rent of any subsequent occupant(s) who is not a co-occupant and who commenced occupancy of the unit on or after January 1, 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance unless the subsequent occupant proves that the landlord waived his or her right to increase the rent by:

(1) Affirmatively representing to the subsequent occupant that he/she may remain in possession of the unit at the same rental rate charged to the original occupant(s); or

(2) Failing, within 90 days of receipt of written notice that the last original occupant is going to vacate the rental unit or actual knowledge that the last original occupant no longer permanently resides at the unit, whichever is later, to serve written notice of a rent increase or a reservation of the right to increase the rent at a later date; or



- (3) Receiving written notice from an original occupant of the subsequent occupant's occupancy and thereafter accepting rent unless, within 90 days of said acceptance of rent, the landlord reserved the right to increase the rent at a later date.

Where the landlord has waived the right to increase the rent under subsection (c)(1) or (c)(3) above, the subsequent occupant to whom the representation was made or from whom the landlord accepted rent shall thereafter have the protection of an original occupant as to any future rent increases under this Section 6.14. Where the landlord has waived the right to increase the rent under subsection (c)(2) above, any subsequent occupant who permanently resides in the rental unit with the actual knowledge and consent of the landlord (if the landlord's consent is required and not unreasonably withheld) at the time of the waiver shall thereafter have the protection of an original occupant as to any future rent increases under this Section 6.14.

**(d) Subsequent Occupants who are not Co-occupants and who commenced occupancy on or after 1/1/96, where the last Original Occupant vacated prior to 4/25/2000.** When all original occupants no longer permanently reside in a rental unit and the last of the original occupants vacated prior to 4/25/2000, the landlord may establish a new base rent for any subsequent occupants who are not co-occupants and who commenced occupancy of the unit on or after January 1, 1996 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if:

(1) The landlord served on the subsequent occupant(s), within a reasonable time of actual knowledge of occupancy, a written notice that when the last of the original occupants vacates the premises, the new tenancy is created for purposes of determining the rent under the Rent Ordinance. Failure to give such a notice within 60 days of the landlord's actual knowledge of the occupancy by the subsequent occupant(s) establishes a rebuttable presumption that notice was not given within a reasonable period of time; or

(2) The landlord is entitled to establish a new base rent under the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.53(d), even if no notice was served on the subsequent occupant(s) pursuant to subsection (d)(1) above.

**(e) Subsequent Occupants of Proposition I Affected Units.** When all original occupant(s) no longer permanently reside in a Proposition I Affected Unit, the landlord may raise the rent of any subsequent occupant who resided in the unit prior to February 15, 1995 without regard to the limitations set forth in Section 37.3(a) of the Rent Ordinance if the landlord served on the subsequent occupant(s), on or before August 15, 1995, a written notice that when the last of the original occupant(s) vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. If the landlord has not timely served such a notice on the pre-February 15, 1995 subsequent occupant(s) of the Proposition I Affected Unit, a new tenancy is not created for purposes of determining the rent under the Rent Ordinance when the last of the original occupant(s) vacates the premises. For subsequent occupants who commenced occupancy in a Proposition I Affected Unit on or after February 15, 1995, the provisions of subsections (a) through (d) above apply.



(f) This Section 6.14 is intended to comply with Civil Code Section 1954.50 et seq. and shall not be construed to enlarge or diminish rights thereunder.

V. Communications

The Commissioners received a copy of a letter from landlord Robert Barbagelata regarding the proposed revisions to Rules Section 6.14 and a copy of the Annual Report on Eviction Notices provided by the Department to the Board of Supervisors.

VI. Director's Report

Executive Director Grubb informed the Commissioners that the Costa-Hawkins amendments to the Rent Ordinance suggested by the Rent Board to the Board of Supervisors will be heard at the Housing and Social Policy Committee on Tuesday, May 2nd, at 10:00 a.m.

VII. Remarks from the Public

Miguel Wooding of the Tenants' Union told the Commissioners that they had just "made an obscure law more obscure." Mr. Wooding felt strongly that, since "having a rental agreement's what tenancy's all about", the departure from the word "co-tenant" will make it more difficult for tenants to obtain their rights.

VIII. Calendar Items

May 2, 2000

8 appeal considerations (1 cont. from 3/21/2000; 1 cont. from 4/4/2000)

May 9, 2000 - NO MEETING

IX. Adjournment

President Wasserman adjourned the meeting at 8:40 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
May 2, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

**AGENDA**

MAY - 4 2000

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PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

*Fax Copy 1st Posted 5/2/00*

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1074 - 1076 Carolina

AL2K0015  
(cont. from 3/21/00)

The landlord appeals the dismissal of his petition seeking exemption due to substantial rehabilitation.

B. 338 Kirkham St. #3

AL2K0013  
(cont. from 4/4/00)

The landlord appeals the decision granting a claim of decreased housing services.

C. 1369 Hyde

AT2K0024; AT2K0040  
thru -44; & AT2K0049  
thru -63

Twenty-four tenants appeal the decision certifying capital improvement costs, five on the grounds of financial hardship.

D. 1700 Page #8

AT2K0027

The tenant appeals the decision denying a claim of unlawful rent increase.

E. 7427 Geary Blvd.

AL2K0034 & AT2K0028





The tenant and landlord appeal the decision certifying capital improvement costs.

F. 626 Leavenworth St.

AL2K0029

The landlord appeals the decision denying his petition for extension of time to do capital improvement work.

G. 2656 Van Ness #11

AL2K0033

The landlord appeals the decision granting claims of decreased housing services.

H. 1550 Fillmore #500

AT2K0035

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

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X. New Business

XI. Calendar Items

XII. Adjournment



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MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, May 2, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

POLLY MARSHALL  
VICE-PRESIDENT

MAY 17 2000

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER||  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:10 p.m.

Roll Call

Commissioners Present: Becker; Bierly; Hobson; Marshall; Murphy;  
Wasserman.  
Commissioners not Present: Justman; Lightner; Mosser.  
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 25, 2000.  
(Murphy/Becker: 4-0)

IV. Consideration of Appeals

A. 1074 - 1076 Carolina

AL2K0015  
(cont. from 3/21/2000)

The landlord's petition for certification of substantial rehabilitation was dismissed due to the landlord's failure to meet the threshold requirements of Rules and Regulations Section 8.12. On appeal, the landlord asks that the Board waive many of the procedural provisions of the Rules, with which he will be unable to comply; otherwise, he will sell the building to tenants-in-common buyers.

After discussion at the meeting on March 21st, it was the consensus of the Board to continue consideration of this case out of concern that the landlord may have thought that he would be able to make arguments in support of his appeal at that meeting; and to give him an opportunity to do so in writing. After review and discussion of additional documentation and arguments submitted by the landlord, the Board voted as follows below.

MSC: To deny the appeal without prejudice to re-filing.  
(Becker/Marshall: 4-1; Gruber dissenting)

B. 338 Kirkham St. #3

AL2K0013  
(cont. from 4/4/2000)



The landlords' appeal was filed two days late because the landlords allege that they were out of town at the time the Decision was mailed.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Murphy: 5-0)

The tenants' petition alleging substantial decreases in housing services was granted only as to the claim of loss of use of the garage floor area for storage for several months, and the landlords were found liable to the tenants in the amount of \$163.45. On appeal, the landlords assert that: the tenants acquired the additional garage floor storage space after the inception of the tenancy for no additional consideration; the lease and Estoppel Certificate filled out by the tenants do not mention storage space and it was reasonable for the landlords to have relied on these documents; and the landlords should not be punished for an omission on the part of the tenants.

MSC: To accept the appeal and remand the case for a hearing to consider the Estoppel Certificate and new evidence submitted by the landlord on appeal. (Becker/Marshall: 5-0)

C. 1369 Hyde St.

AT2K0024; AT2K0040  
thru -44; & AT2K0049 thru -63

The landlord's petition for certification of capital improvement costs to 70 of 84 units was granted, in part. A tenant petition alleging decreased housing services due to the landlord's refusal to give consent to a replacement roommate was denied. Five tenants appeal on the grounds of financial hardship. Nineteen tenants jointly appeal on the grounds that: the cost of painting the same areas in the building was significantly less the last time the work was performed; the new Cardkey system and video cameras are luxury items, and tenants pay a "use fee" for replacement card keys; and the landlord failed to prove that the roof door work was necessary.

MSC: To deny the individual appeal of the tenants in unit #40.  
(Gruber/Murphy: 5-0)

MSC: To accept the appeal of the tenant in unit #49 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #56 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #17 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #63 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Wasserman/Becker: 5-0)

MSC: To deny the joint appeal filed by nineteen tenants.  
(Murphy/Gruber: 4-1; Marshall dissenting)





The hardship appeal of the tenant in unit #52 was continued in order for the tenant to respond to an allegation made by the landlord's attorney that the tenant has a roommate and, if so, to obtain a Hardship Application from that individual.

D. 1700 Page #8

AT2K0027

The tenant's petition alleging an unlawful rent increase was denied because the tenant was questioning whether the landlord had correctly imposed a capital improvement passthrough, and the Administrative Law Judge found that the landlord had imposed less than he was entitled to. On appeal, the tenant maintains that she had asked that her rent history be checked back to 1997, and that if she had known that complete documentation was required, she would have provided it.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to check the tenant's rent history; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

E. 7427 Geary Blvd. #3

AL2K0034 & AT2K0028

The landlord's petition for certification of capital improvement costs was granted, in part, resulting in a monthly passthrough in the amount of \$59.72. The tenant appeals the decision, arguing that: the landlord failed to adequately document costs and payment; and an independent estimator should have retained to give an opinion as to the reasonable cost of the work. The landlord also appeals, claiming that the cost of stair replacement should have been certified; and the electrical work should have been certified over a 7, rather than 10, year period.

MSC: To deny both the tenant's and the landlord's appeals.  
(Gruber/Murphy: 3-2; Becker, Marshall dissenting)

F. 626 Leavenworth St.

AL2K0029

The landlord's petition for extension of time to do capital improvement work was denied because the landlord failed to provide a written breakdown of the proposed work and did not file the petition until more than three months after they knew, or should have known, that the work would take longer than three months to complete. On appeal, the landlord asserts that the delay was caused by PG&E's inability to provide new electrical service to the property and the tenant's failure to vacate the unit upon expiration of the 30-day notice. The landlord's appeal was filed five days late without explanation, and no response was received to a Memorandum from the Deputy Director requesting that the landlord explain the reason for the late filing.

MSC: To find no good cause for the late filing of the appeal. The Decision of the Administrative Law Judge is therefore final.  
(Becker/Marshall: 3-2; Gruber, Murphy dissenting)

G. 2656 Van Ness #11

AL2K0033

The tenant's petition alleging a substantial decrease in housing services due to termite infestation in the unit was granted and the landlord was found liable to the tenant in the amount of \$1,125.00. The landlord appeals, arguing that: the exposed wall cavity was closed up by January 11th, except for caulking around the windows; and extermination services were provided on or about January 15th, which should have remedied the problem.



MSC: To deny the appeal except to clarify that, if the infestation ceased prior to the date that rent reductions were granted in the Decision, the parties shall make the appropriate adjustment to the amounts owing from the landlord to the tenant. Additionally, if the problem recurs, the tenant can reinstate the rent reduction.  
(Wasserman/Marshall: 5-0)

H 1550 Fillmore #500

AT2K0035

The landlords' petition for certification of capital improvement costs to 15 of 52 units was granted, in part. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

#### V. Director's Report

Executive Director Grubb informed the Commissioners that amendments to the Rent Ordinance to conform it to Costa-Hawkins were passed by the Housing and Social Policy Committee and will now go before the full Board of Supervisors.

#### VI. Remarks from the Public

Tony Bevevadia, attorney for the landlord involved in the case at 7427 Geary Blvd. #3 (AL2K0034), asked that the Board reconsider their denial of the landlord's appeal, contending that the stair replacement was capital improvement work, and not in the nature of repair.

#### VII. New Business

Commissioner Becker introduced an amendment to Rules Section 6.10(a), as follows below (new language in bold):

(a) A rent increase may be considered justified if it is found that the aggregate cost of Operating and Maintenance Expenses (including but not limited to real estate taxes, business registration and license fees, insurance, routine maintenance and repairs, water, sewer service charge, janitorial service, refuse removal, elevator service, security system and debt service) has increased over a 12-month period preceding the date of filing the petition ("Year 2"), compared to the Operating and Maintenance Expenses incurred in the 12 months prior to Year 2 ("Year 1"), **after having been offset by increases in revenues**, in a percentage amount of the tenant's rent above the percentage amount equal to the allowable rent increase. Alternatively, the immediately preceding two calendar years may be used. Use of a particular calculation period in order to create exaggerated results is disfavored. To determine the per unit rent increase, this cost increase is divided by 12 months, then divided by the number of units in the building. Only those tenants in residence during Year 1 may be assessed a rent increase based on an increase in Operating and Maintenance Expenses, except in cases of change of ownership following commencement of tenancy.

Discussion of this proposal will be on the May 16th Board meeting calendar.



VIII. Calendar Items

May 9, 2000 - NO MEETING

May 16, 2000

11 appeal considerations (1 cont. from 5/2/00)

Old Business: Revenue Offset for O&M Increases

New Business: Recission of Notice of Constraints (665 Clay St.)

IX. Adjournment

President Wasserman adjourned the meeting at 7:35 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
May 16, 2000

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

**AGENDA**

for 5/12/00  
DOCUMENTS DEPT.

MAY 17 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1369 Hyde St. #52 AT2K0024  
(cont. from 5/2/00)

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1311 Chesnut St. AL2K0037

The landlord appeals the decision granting rent increases based on increased operating expenses but denying certification of capital improvement costs.

C. 210 Diamond St. AT2K0036

The tenant appeals the decision granting a rent increase based on operating expenses and certifying capital improvement costs.

D. 1616 Taylor #7 AT2K0038

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

E. 271 - 6th Ave. #1 AL2K0039

The landlord appeals the amount certified for capital improvement costs.

F. 1328 Waller #2 AT2K0030; AL2K0064







The tenant appeals the portion of the decision granting certification of capital improvement costs on the grounds of financial hardship; the landlord appeals the denial of a rent increase based on the Past Rent History of this Newly Covered Unit pursuant to Proposition I.

G. 2526 Van Ness #11

AT2K0066

The tenant appeals the decision determining rent overpayments but upholding the validity of a notice of rent increase.

H. 1300 - 41st Ave. #1

AT2K0068

The tenant appeals the decision granting certification of capital improvement costs.

I. 1520 Gough St., Apt. 602

AT2K0069

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

J. 1416 - 38th Ave.

AT2K0067

One tenant appeals the decision certifying capital improvement costs and granting rent increases based on operating expenses, claiming that there is an error in his rent calculation.

K. 729 Banks St.

AL2K0071

The landlord appeals the decision granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Revenue Offset for Operating & Maintenance Expense Increases

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

Recission of Notice of Constraints (665 Clay St.)

XI. Calendar Items

XII. Adjournment



## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, May 16, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUN - 2 2000

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:07 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Hobson; Marshall;  
Murphy; Wasserman.

Commissioners not Present:

Justman; Mosser.

Staff Present:

Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:16 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 2, 2000.  
(Gruber/Murphy: 5-0)

IV. Remarks from the Public

A. Landlord Maya Zusman, involved in the case at 729 Banks Street (AL2K0071), informed the Board that she didn't submit evidence in support of her appeal because she thought that there would be a hearing, and asked that consideration of her appeal be continued so that she could do so.

B. Robert Pender of the Tenants' Network informed the Commissioners that two petitions are being circulated by the tenant community for the November ballot: one having to do with extending the 200 limit on condominiums indefinitely; and one limiting capital improvement passthroughs. The Senior Action Network will be traveling to Sacramento on May 24th to discuss possible amendments to the Ellis Act with the four Bay Area legislators.

C. Vesta Kirby, appellant in the case at 1616 Taylor #7 (AT2K0038), told the Board that she went back to school in order to increase her income, since her hardship actually began in 1990; and that the prior operating expense increase combined with the current capital improvement passthrough have resulted in a \$130 per month increase in her rent over an 8-month period.

D. Christian Lackner, tenant at 2526 Van Ness #11 (AT2K0066), inquired as to whether the Commissioners had received his response to the ALJ's Memorandum concerning his appeal. Mr. Lackner informed the Board that he is prepared to take this case to the Superior Court because he will no longer be able



to store items in the same way that he used to, while paying the same amount for the service.

E. David Golden, attorney for the tenant at 729 Banks Street (AL2K0071), told the Board that there is no dispute that a housing service previously provided to the tenant had been reduced and that she is therefore entitled to a rent reduction.

V. Consideration of Appeals

A. 1369 Hyde St. #52

AT2K0024  
(cont. from 5/2/00)

The landlord's petition for certification of capital improvement costs to 70 of 84 units was granted, in part. A tenant petition alleging decreased housing services due to the landlord's refusal to give consent to a replacement roommate was denied. Five tenants appealed on the grounds of financial hardship. Nineteen tenants jointly appealed on various other grounds. The hardship appeal of the tenant in unit #52 was continued in order for the tenant to respond to an allegation made by the landlord's attorney that the tenant has a roommate and, if so, to obtain a Hardship Application from that individual.

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Lightner/Becker: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Murphy/Marshall: 5-0)

B. 1311 Chesnut St.

AL2K0037

The landlord's petition for rent increases based on increased operating expenses was granted. The portion of the petition requesting certification of capital improvement costs was denied because the landlord failed to prove payment on a Promissory Note payable to a company owned by her father; neither did she provide invoices documenting the quantity or types of materials purchased. On appeal, the landlord claims that: the Administrative Law Judge failed to indicate that the documentation submitted was inadequate, and did not request copies of invoices in addition to canceled checks; and, since the time of the hearing, the two outstanding payments on the Promissory Note have been made. The landlord asserts that, even if that had not been the case, a valid Promissory Note constitutes "constructive payment".

MSC: To accept the appeal and remand the case for a hearing to consider proof of payments made on the Promissory Note since the time of the hearing and to explore whether such payments can be expected to continue; and to allow the landlord to provide invoices documenting the quantity and types of materials purchased. (Marshall/Lightner: 5-0)

C. 210 Diamond St.

AT2K0036

The tenant's appeal was filed one day late because the tenant is a full-time student who was busy with exams, and the Decision was addressed to the wrong zip code.



MSC: To find good cause for the late filing of the appeal.  
(Marshall/Becker: 5-0)

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted, in part. The tenant appeals the certification of painting the exterior of the building, which he claims was a luxury item done solely to increase the sales price of a unit in the building; and that the loan documentation from the prior owner is inadequate to justify an increase based on debt service.

MSC: To recuse Commissioner Hobson from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. 1616 Taylor #7

AT2K0038

The landlord's petition for certification of capital improvement costs was granted, in part. One tenant appeals the decision on the grounds of financial hardship; she also maintains that the Decision is in error as to the commencement date of her tenancy.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship only; any deferral granted shall not extend longer than one year from the date of the hardship hearing. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

E. 271 - 6th Ave. #1

AL2K0039

The landlord's petition for certification of the cost of new carpeting for one unit was granted, resulting in a monthly passthrough in the amount of \$15.51. On appeal, the landlord claims that the actual cost of the carpet and installation was greater than that certified by the Administrative Law Judge.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record on the issue of the cost of the carpeting.  
(Becker/Lightner: 5-0)

F. 1328 Waller #2

AT2K0030; AL2K0064

The landlord's petition for certification of capital improvement costs was granted. The tenant's petition alleging decreased housing services during the period when his bathroom was being remodeled was denied. The landlord's petition for a 7.2% rent increase based on the past rent history of this Newly Covered Unit was denied because a rent increase went into effect on May 1, 1994. The tenant appeals the capital improvement passthrough on the grounds of financial hardship. The landlord appeals the denial of the 7.2% rent increase because the Regulation provides that a landlord is entitled to this amount if there had been no rent increase between May 2, 1991 and May 1, 1994, and she argues that May 1st of 1994 does not fall between these dates.

MSC: To deny the landlord's appeal regarding the 7.2% comparables increase based on the past rent history of the unit.  
(Wasserman/Marshall: 3-2; Gruber, Lightner dissenting)



MSC: To accept the tenant's appeal and remand the case for a hearing on the financial hardship claim. The Administrative Law Judge shall look closely at the tenant's assets. (Becker/Marshall: 5-0)

G. 2526 Van Ness #11

AT2K0066

The tenant filed a petition alleging an unlawful rent increase because the tenant claimed that the landlord had failed to refund amounts found owing to him in a prior Decision; the tenant contended that he had not been properly served with the notice of rent increase; the tenant maintained that the notice was technically defective in that it did not itemize banked increases by year; and the tenant contended that the landlord was not entitled to restore a rent reduction for loss of storage space because improvements to the space had not been effectuated. On appeal, the tenant asserts that the amount of overpayments determined to be owing from the landlord are still incorrect; that he was not served with the notice of rent increase until several months later than the date determined in the Decision; and the full use of the storage space has not been restored.

Since a response by the tenant to a Memorandum from the Administrative Law Judge had not been served on the landlord, consideration of this case was continued to the next meeting.

H. 1300 - 41st Ave. #1

AT2K0068

The landlords' petition for certification of capital improvement costs to five units was granted. The tenants in one unit appeal the decision, claiming that the work was necessitated by leakage of water from the windows and that replacement of a roof after more than 10 years does not constitute a capital improvement.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

I. 1520 Gough St., Apt. 602

AT2K0069

The landlords' petition for certification of capital improvement costs to 21 of 38 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 5-0)

J. 1416 - 38th Ave.

AT2K0067

The landlords' petition for certification of capital improvement costs was granted; a consolidated petition for a rent increase based on increased operating expenses was denied; and rent overpayments in the amount of \$44.00 were determined to be owing from the landlords to the tenant. On appeal, the tenant asserts that the Decision is incorrect as to the amount of his rent.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

K. 729 Banks St.

AL2K0071

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$220.00 due to the

recission of the tenant's right to park her car in the garage. On appeal, the landlord claims that the tenant's parking privileges were revoked because the tenant was damaging the landlord's property.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. An anonymous letter apparently objecting to a proposed increase based on increased operating expenses.

B. A copy of the decision in the Second District Court of Appeal case of Cabinda v. Santa Monica Rent Control Board (No. B133077, 00 C.D.O.S. 3743 {5/1//00}), where it was determined that regulations adopted by the Santa Monica Rent Control Board governing vacancy decontrol were preempted by Costa-Hawkins.

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that the agency is facing a \$360-370,000 deficit for the next fiscal year. This is the result of one of the Senior Administrative Law Judge's salaries having inadvertently been deleted from last year's budget, cost of living increases, position upgrades, and the new Administrative Law Judge positions having been budgeted in for only 3/4 of the year. If the Department fails to obtain an increase in the rental unit fee, positions will be lost; although there are sufficient funds to keep the current staffing level in place until September 1<sup>st</sup>. The departmental budget goes before the Finance Committee the week of June 15<sup>th</sup>. A fee increase could be moved at the Public Hearing that will take place at that time.

#### VIII. Old Business

##### Revenue Offset for Operating & Maintenance Expense Increases

The Commissioners briefly discussed an amendment to Rules and Regulations Section 6.10(a) introduced by Commissioner Becker which would offset increases in revenues generated by a building from any rent increase proven justified by an increase in the landlord's operating expenses. Commissioners Lightner and Murphy stated that, since operating expense increases are capped at 7%, the cap would have to be removed before they would be receptive to such a proposal. Commissioner Lightner also said that there is a fallacious belief that all landlords are currently making tremendous profits; since rents are so high, tenants cannot afford to move. Discussion of this issue will be continued at the next Board meeting.

#### IV. Remarks from the Public (cont.)

F. Landlord Marian Halley, involved in the case at 1328 Waller (AT2K0030; AL2K0064), told the Commissioners that she could not find out the answer to a question that she had regarding Past Rent History rent increases by looking through

binders of prior decisions, and that decisions of the Administrative Law Judges and the Rent Board should be indexed by issue.

G. Tenant Vesta Kirby, appellant at 1616 Taylor #7 (AT2K0038), inquired as to the date of termination of the deferral of the capital improvement passthrough.

H. Attorney Steven MacDonald informed the Board that the Landlord-Tenant Subcommittee of the State Bar will be discussing the ethics of Ellis Act evictions at their next meeting.

IX. New Business

Recission of Notice of Constraints (665 Clay St.)

The Board received a letter from an attorney for the Chinatown Community Development Center, which has purchased the building at 665 Clay Street, which was Ellised by the prior owner. Since the new owner has every intention of keeping the tenants in place, and not Ellising the building, they are rescinding the Notice of Constraints on the property. Since their title company has requested that the Rent Board authorize its Executive Director to execute and acknowledge the recission, the Board passed the following motion:

MSC: To authorize the Executive Director to execute a recission of the Notice of Constraints on the property at 665 Clay Street.  
(Marshall/Lightner: 5-0)

X. Calendar Items

May 23 & 30, 2000 - NO MEETINGS

June 6, 2000

9 appeal considerations (1 cont. from 5/16/00)

Old Business: Revenue Offset for O&M Increases

XI. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.



City and County of San Francisco



Residential Rent Stabilization  
and Arbitration Board

MAY 11, 2000

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF PUBLIC HEARING

DATE: May 24, 2000

TIME: 12:00 Noon

PLACE: City Hall  
Room 400  
1 Carlton B. Goodlett Place  
San Francisco CA

DOCUMENTS DEPT.

MAY 11 2000

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

SUBJECT: SAN FRANCISCO HOUSING STUDY

The Executive Director of the Rent Stabilization and Arbitration Board, herein referred to as the "Moderator", will be holding a public hearing for the purpose of inviting comment on the scope and nature of the study. The comments gathered as a result of this hearing shall be included with the Study Protocol, a compilation of recommendations previously submitted by various housing advocates. The scope of the Study shall take into account public comments and the Study Protocol, but shall not be limited to just these recommendations. The Study will be a neutral, comprehensive fact-based study on the nature and sources of the current housing shortage and its socio-economic implications.

The Moderator will issue a Request for Proposal (RFP) to conduct the Study after the hearing. It is anticipated that the RFP will be issued by the end of June. The entity chosen to conduct the Study will have one year to complete it. A report will then be provided to the Housing and Social Policy Committee of the Board of Supervisors for their policy consideration and public hearing.

The text of the Ordinance, 55-00, is enclosed for your review.



**PAGE 2**

**HOUSING STUDY, PUBLIC HEARING NOTICE**

**MAY 11, 2000**

**MAKING YOUR COMMENTS KNOWN**

You have other options if you cannot or do not want to attend the public hearing. If you would prefer, you may provide us with your comments and suggestions in any of the following ways:

**EMAIL**

Please send your comments to: [joe\\_grubb@ci.sf.ca.us](mailto:joe_grubb@ci.sf.ca.us)

**FAX**

You may fax them to us at: 415.252.4699

**MAIL**

You can mail your comments to:

Joe Grubb, Moderator  
Rent Board  
25 Van Ness Avenue, Suite 320  
San Francisco CA 94102-6033





FILE NO. 991412

ORDINANCE NO. 55-00

[Study of Housing in San Francisco]

**DIRECTING THE EXECUTIVE DIRECTOR OF THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD TO OBTAIN A NEUTRAL COMPREHENSIVE FACT-BASED SOCIO-ECONOMIC STUDY OF HOUSING IN SAN FRANCISCO; PROVIDING A GOAL OF COMPLETING THE STUDY WITHIN ONE YEAR; PROVIDING THAT SUBSTANTIVE AMENDMENTS TO VARIOUS HOUSING ORDINANCES AND POLICIES MUST BE SUPPORTED BY FINDINGS OF FACT; AND, FINDINGS IN SUPPORT OF THIS ORDINANCE.**

Note: This entire ordinance is new.

Be it ordained by the People of the City and County of San Francisco:

**Section 1.** A new ordinance is hereby enacted, to read as follows:

**Housing Study; Requiring Findings.**

(a) The Board of Supervisors (Board) hereby finds:

(1) That various housing policies and ordinances ("policies and ordinances"), including the San Francisco Residential Rent Stabilization and Arbitration Ordinance, have been in effect for approximately 20 years; that these policies and ordinances were originally enacted upon various findings of fact, including a declaration of the existence of a housing shortage, constituting in its effects a "crisis" in San Francisco; and that various amendments to these policies and ordinances by the Board of Supervisors and through the voter initiative process are reflective of a continuing housing shortage and crisis in San Francisco over time; and,

**SUPERVISOR BROWN, TENG, KAUFMAN, BECERRIL, NEWSOM**  
**BOARD OF SUPERVISORS**



1 (2) That anecdotal and documentary information is frequently presented by  
2 interested parties at Board Committee hearings regarding proposed amendments to these  
3 housing policies and ordinances; and,

4 (3) That a neutral comprehensive fact-based study on the nature and  
5 sources of our current housing shortage and its socio-economic dimensions could better  
6 inform the Board regarding future changes to these policies and ordinances; and,

7 (4) That a study of the nature and effects of the current housing shortage  
8 should be performed in order to assist the City and its leaders in the formation of housing  
9 policies and ordinances that will benefit all San Franciscans.

10 (b) The Executive Director of the Residential Rent Stabilization and Arbitration  
11 Board ("Executive Director") shall cause a neutral entity to conduct a comprehensive fact-  
12 based socio-economic study of housing in San Francisco ("The Study"). The Executive  
13 Director shall oversee and serve as the Moderator of the Study ("Moderator").

14 (1) The Moderator shall conduct a public meeting to hear from interested  
15 parties regarding the scope of The Study.

16 (2) In determining the scope of The Study, the Moderator shall utilize  
17 information gathered during the public meeting, as well as information detailed in a document  
18 known as the Study Protocol. The Study Protocol is a compilation of recommendations  
19 submitted by various housing advocates regarding the scope of The Study. The scope of The  
20 Study shall include, but not be limited to, the items detailed in the Study Protocol.

21 (3) The Moderator also shall consult with the Planning Department, the  
22 Housing Authority, the Redevelopment Agency, the Mayor's Office of Housing, the  
23 Department of Human Services, and the Fire Department, regarding the scope of The Study.



1 (4) Upon completion of The Study the Moderator shall report the findings of  
2 The Study, which shall be forwarded to the Board's Housing and Social Policy Committee (or  
3 successor Committee) for review and public hearing.

4 (5) The goal is for The Study to be completed and reported in writing to the  
5 Board's Housing and Social Policy Committee (or successor Committee) within one year from  
6 the original effective date of this ordinance. Thereafter, The Study should be updated as  
7 needed, not to exceed once every three years.

8 (c) Any substantive amendments to the various housing policies and ordinances  
9 must be supported by findings of fact.

10  
11  
12  
13 APPROVED AS TO FORM:  
14 LOUISE H. RENNE, City Attorney

15 By:

16   
MARIE CORLETT BLITS  
17 Deputy City Attorney  
18  
19  
20  
21  
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23  
24  
25





## City and County of San Francisco

### Tails

### Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 991412

**Date Passed:**

Ordinance directing the Executive Director of the Residential Rent Stabilization and Arbitration Board to obtain a neutral comprehensive fact-based socio-economic study of housing in San Francisco; providing a goal of completing the study within one year; providing that substantive amendments to various housing ordinances and policies must be supported by findings of fact; and, findings in support of this ordinance.

March 20, 2000 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng,  
Yaki, Yee

Absent: 1 - Bierman

March 27, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng,  
Yaki, Yee

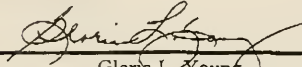
Absent: 1 - Bierman





File No. 991412

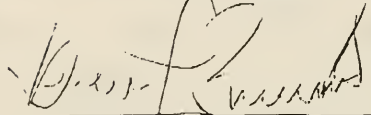
I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on March 27, 2000  
by the Board of Supervisors of the City and  
County of San Francisco.



Gloria L. Young  
Clerk of the Board

APR - 5 2000

Date Approved



Mayor Willie L. Brown Jr.



## Amendment of the Whole in Board

991413

3/20/00

FILE NO. \_\_\_\_\_

ORDINANCE NO. 56-00

(Government Funding)

RO#99023

SA#06

1 APPROPRIATING \$175,000 FROM THE GENERAL FUND RESERVE TO THE RENT  
 2 ARBITRATION BOARD TO FUND A NEUTRAL, COMPREHENSIVE, FACT-BASED  
 3 SOCIOECONOMIC STUDY OF HOUSING IN SAN FRANCISCO, FOR FISCAL YEAR  
 1999-2000, PLACING \$175,000 ON RESERVE.

4 Be it ordained by the people of the City and County of San Francisco:

5 Section 1. Funds are hereby appropriated for FY 1999-2000 as follows:

6 Department and Number	Source of Funds and Purpose of Appropriation	Amount Debit	Credit
----------------------------	---	-----------------	--------

8 Fund	Department	Program
9 1G-AGF-AAA	GEN01	FCZ
10 General Fund	General City Responsibility	General City Responsibility

11 097-097GR	General Fund Reserve	\$175,000
(*CON1GAGFAAA)		

12 095-0951G	Intrafund Transfer Out to	\$175,000
13 (GERB001A951G)	1G-AGF-AAP	

14 Total	\$175,000	\$175,000
----------	-----------	-----------

16 Fund	Department	Program
16 1G-AGF-AAP	RNT01	CCC
17 General Fund -	Rent Arbitration Board	Rent Board
18 Annual Project		

19 Project	
PRB001	Fact-Based Socio Economic Study

20 950-9501G	Intrafund Transfer In from	\$175,000
21 (RBRB001A501G)	1G-AGF-AAA - Non-Project	

22 021-02700	Professional Services	\$175,000
23 (655005)		

24 Total	\$175,000	\$175,000
----------	-----------	-----------

25 Supervisors Brown, Teng Kaufman, Becerril, Newsom

BOARD OF SUPERVISORS



Section 2.

Funds in the amount of \$175,000 are hereby reserved, to be released  
by the Finance Committee.

APPROVED AS TO FORM:  
LOUISE H. RENNE, CITY ATTORNEY

FUNDS AVAILABLE  
EDWARD M. HARRINGTON  
CONTROLLER

BY: *Louise H. Renne*

DEPUTY CITY ATTORNEY

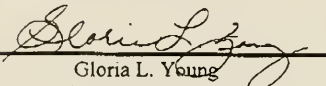
BY: *Edward M. Harrington*

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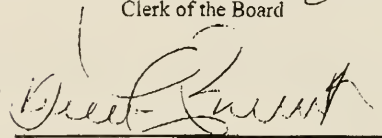
File No. 991413

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on March 27, 2000  
by the Board of Supervisors of the City and  
County of San Francisco.

  
Gloria L. Young  
Clerk of the Board

APR - 5 2000

Date Approved

  
Mayor Willie L. Brown Jr.







# City and County of San Francisco

## Tails

### Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 991413

**Date Passed:**

Ordinance appropriating \$175,000, from General Fund Reserve to the Rent and Arbitration Board to fund a neutral, comprehensive, fact-based socio-economic study of housing in San Francisco, for fiscal year 1999-2000, placing \$175,000 on reserve.

March 20, 2000 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE  
BEARING NEW TITLE

Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng,  
Yaki, Yee

Absent: 1 - Bierman

March 20, 2000 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng,  
Yaki, Yee

Absent: 1 - Bierman

March 27, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng,  
Yaki, Yee

Absent: 1 - Bierman





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,

June 6, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

- I. Call to Order
- LARRY BEACH BECKER
- SHIRLEY A. BIERLY
- DAVID GUSTAV GRUBER
- FREDERICK HOBSON
- ANTHONY JUSTMAN
- MERRIE T. LIGHTNER
- NEVEO MOSSER
- BARTHOLOMEW MURPHY
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

JUN - 2 2000

SAN FRANCISCO  
PUBLIC LIBRARY  
JUN 6 11 00

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

- A. 2526 Van Ness Ave. AT2K0066  
(cont. from 5/16/00)

The tenant appeals the decision determining rent overpayments but upholding the validity of a notice of rent increase.

- B. 41 San Jose Ave. AT2K0072

One tenant appeals the decision certifying capital improvement costs of the grounds of financial hardship.

- C. 5116 - 3rd St. AL2K0074

The landlords appeal the decision granting a claim of unlawful rent increase.

- D. 656 O'Farrell St. #202 AT2K0073

The tenants appeal the remand decision partially granting their claim of financial hardship.

- E. 798 Geneva #2 AL2K0075

The landlord appeals the decision granting a claim of unlawful rent increase, arguing that the increase is allowed pursuant to Costa-Hawkins.

- F. 2821 - 25th St. AT2K0079

The tenant appeals the dismissal of his petition alleging an unlawful rent increase due to his failure to appear at the properly noticed hearing.

G. 2810 Folsom St.

AL2K0080

The landlord appeals the decision partially granting a claim of decreased housing services.

H. 4410 - 17th St.

AL2K0081

The landlord appeals the remand decision granting a claim of decreased housing services.

I. 250 Kearny St. #517

AT2K0082

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the properly noticed hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

Revenue Offset for Operating & Maintenance Expense Increases

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment

## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

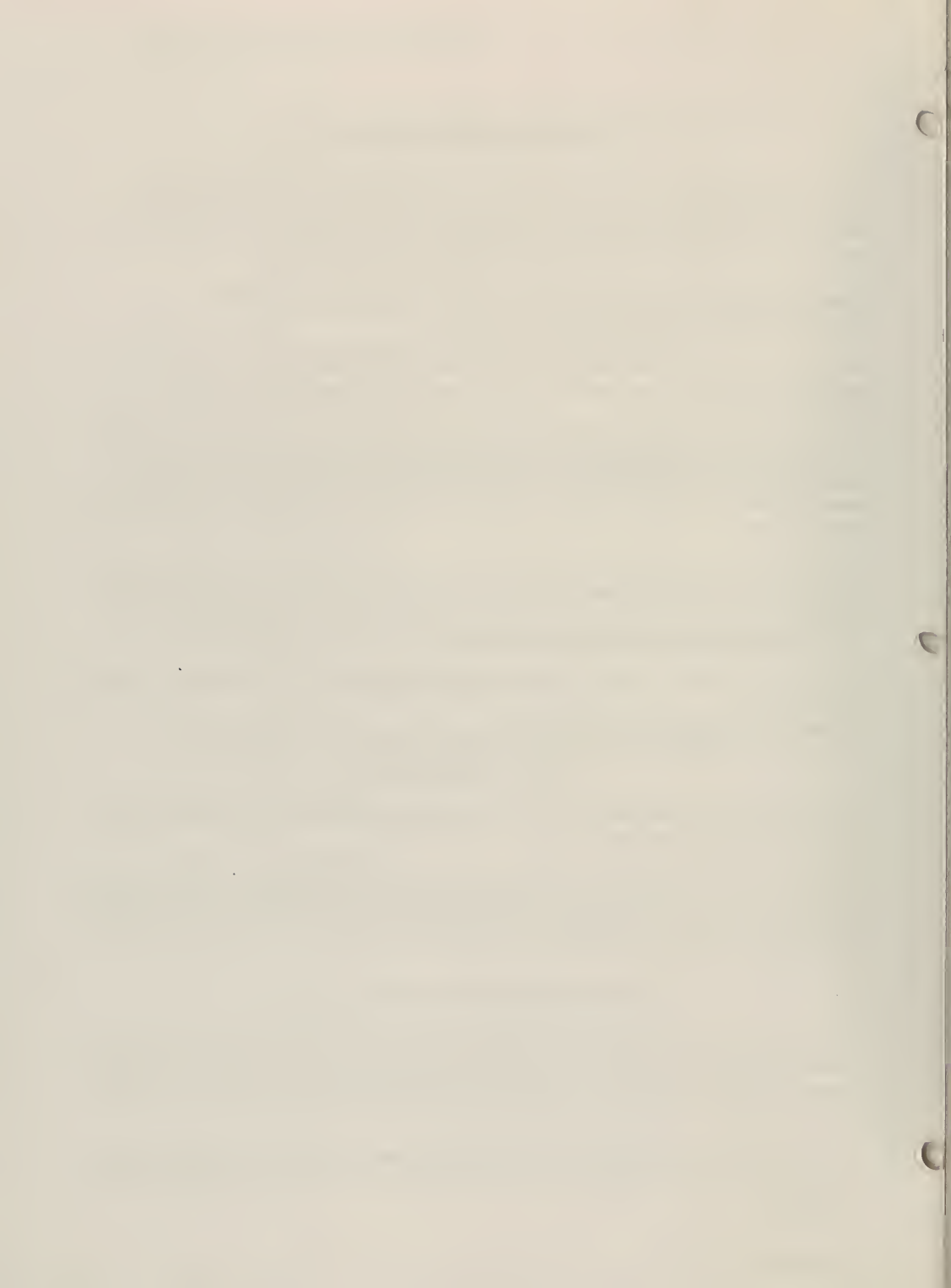
The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,**

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, June 6, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUN 16 2000

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON

President Wasserman called the meeting to order at 6:09 p.m.

II. Roll Call

ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Commissioners Present: Becker; Bierly; Hobson; Justman; Marshall;  
Mosser; Murphy; Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:12 p.m.; Commissioner Gruber arrived at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 16, 2000.  
(Marshall/Becker: 5-0)

IV. Remarks from the Public

A. Christian Lackner, tenant-appellant in the case at 2526 Van Ness (AT2K0066), addressed the Board concerning his appeal. He stated his opinion that there was no basis for upholding the Decision of the Administrative Law Judge; that the result of the Decision would be that he would have to pay for storage space that is illegal; and that inconsistent, fraudulent testimony on the part of the landlord was given greater credence than his credible and consistent testimony.

V. Consideration of Appeals

A. 2526 Van Ness #11

AT2K0066  
(cont. from 5/16/00)

The tenant filed a petition alleging an unlawful rent increase because the tenant claimed that the landlord had failed to refund amounts found owing to him in a prior Decision; the tenant contended that he had not been properly served with the notice of rent increase; the tenant maintained that the notice was technically defective in that it did not itemize banked increases by year; and the tenant contended that the landlord was not entitled to restore a rent reduction for loss of storage space because improvements to the space had not been effectuated. On appeal, the tenant asserted that the amount of overpayments determined to be owing from the landlord are still incorrect; that he was not served with the notice of rent increase until





several months later than the date determined in the Decision; and the full use of the storage space has not been restored.

Since a response by the tenant to a Memorandum from the Administrative Law Judge had not been served on the landlord, consideration of this case was continued to this evening's meeting.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge on the record to correct the amounts owing from the landlord to the tenant. (Lightner/Gruber: 5-0)

B. 41 San Jose Ave.

AT2K0072

The landlord's petition for certification of capital improvement costs to 11 of 18 units was granted, in part. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 4-1; Gruber dissenting)

C. 5116 - 3rd St.

AL2K0074

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$7,100.00. On appeal, the landlord claims that information he furnished to the Administrative Law Judge was ignored, and that his position was not seriously considered.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

D. 656 O'Farrell St. #202

AT2K0073

The tenants' appeal of the decision certifying capital improvement costs was granted and the case was remanded for a hearing on the tenants' claim of financial hardship. In the Decision on Remand, the Administrative Law Judge found sufficient hardship to warrant a temporary deferral of the capital improvement passthrough, until October 1, 2000. On further appeal, the tenants claim that, due to age and limited English speaking ability, the prospects for employment are extremely poor.

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Marshall dissenting)

E. 798 Geneva #2

AL2K0075

The tenant's petition alleging an unlawful increase in rent from \$600 to \$1,500 per month was granted. The Administrative Law Judge found that the landlord did not have the right to increase the rent based on Costa-Hawkins because the landlord had accepted rent from the tenant over a protracted period of time and had waived a prohibition against subletting through his conduct. The Board accepted the appeal of the landlord and remanded the case for a hearing on the issues of waiver and estoppel. In the Decision on Remand, the Administrative Law Judge affirmed the original Decision, and concluded that the landlord was estopped from claiming that the tenant is not a tenant because the landlord imposed banked rent increases from 1984 and otherwise treated the tenant like a tenant, including threatening to terminate the tenancy based on alleged habitual late payment of rent. The landlord appeals



the remand decision, arguing that: the rent increase is authorized by Costa-Hawkins because the tenant is an assignee of the prior tenant; the Costa-Hawkins Rental Housing Act was intended to occupy the field, and Rules Section 6.14 is inapplicable; the landlord acted based on the tenant's misrepresentations and has suffered economic loss as a result; and the Administrative Law Judge is incorrect in her analysis of the elements of estoppel as applied to this case.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

F. 2821 - 25th St.

AT2K0079

The tenant's petition alleging an unlawful rent increase was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant asserts that, at the time of the hearing, he was in Guatemala because his mother was gravely ill. Since the tenant's statement was not executed under penalty of perjury, it was the consensus of the Board to continue consideration of this case in order to obtain a sworn statement from the tenant and documentation regarding his having been out of the country at the time of the hearing.

G. 2810 Folsom St.

AL2K0080

The landlord's appeal was filed one day late because it took several days for the appeal form to arrive in the mail.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Gruber: 5-0)

The tenant's petition alleging substantial decreases in housing services was granted only as to a 5% monthly rent reduction due to loss of access to the garage. On appeal, the landlord claims that the base rent amount in the decision is inaccurate because the tenant has refused to pay noticed rent increases; and that the rent was reduced because the tenant had provided maintenance services, which he is no longer providing.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

H. 4410 - 17th St.

AL2K0081

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$2,231.25. The landlord's appeal was accepted and remanded to the Administrative Law Judge to consider evidence submitted in conjunction with the appeal concerning the quality of the drinking water in the unit. In the Decision on Remand, the amount owing from the landlord to the tenants due to water quality was reduced from \$1,452.50 to \$1,068.75. The landlord again appeals, on the grounds that: receipts for plumbing work done several years ago are no longer available; the problems within the unit were created by the tenants; and rent reductions granted to the tenants have considerably reduced the income she receives from the building.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

I. 250 Kearny St. #517

AT2K0082



The tenant's petition alleging a substantial decrease in housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims that management in the residential hotel failed to give her the mail containing the notice of hearing. She asks for a new hearing, not to be scheduled prior to December, 2000.

MSC: To change the Dismissal with Prejudice to Re-filing to a Dismissal Without Prejudice to Re-filing. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

#### VI. Director's Report

Executive Director Grubb informed the Board that a Public Hearing regarding the scope of the San Francisco Housing Study to be performed pursuant to legislation introduced by Supervisor Amos Brown was held on May 24, 2000. 49 individuals spoke to what they believed should comprise the scope and nature of the study; these comments shall be included with the Study Protocol, a compilation of recommendations previously submitted by various housing advocates. Minutes of the Public Hearing will be prepared by the Deputy Director.

#### VII. Old Business

Revenue Offset for Operating & Maintenance Expense Increases

This issue was temporarily taken off calendar by Commissioner Becker.

#### IV. Remarks from the Public (cont.)

B. Joe Hall inquired as to why there are only 5 voting members on the Board; and asked where hearings are held.

C. Robert Pender of the S.F. Tenants' Network informed the Board that a memorial was held for Carmen Ramirez of the Oakwood Tenants' Association at City Hall on June 5<sup>th</sup>. He also told the Board that, in response to a petition for rent increases based on increased operating expenses by the management at Parkmerced, the tenants at that complex are re-organizing. A meeting will be held on Sunday, June 11<sup>th</sup> at 2:00 p.m. in the Creative Arts Building at S.F. State.

#### VIII. Calendar Items

June 13, 2000 - NO MEETING

June 20, 2000  
6 appeal considerations

#### IX. Adjournment

President Wasserman adjourned the meeting at 6:49 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,Tuesday, 6:00 p.m.,  
June 20, 2000  
25 Van Ness Avenue, #70, Lower Level

## AGENDA

DOCUMENTS DEPT.

JUN 16 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

## V. Consideration of Appeals

A. 2821 - 25<sup>th</sup> St.AT2K0079  
(cont. from 6/6/00)

The tenant appeals the dismissal of his petition alleging unlawful rent increase.

## B. 1487 Guerrero St.

AT2K0084

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

## C. 123 Sanchez St. #8

AT2K0083

The tenant appeals the remand decision denying his claim of unlawful rent increase.

## D. 2033 Turk St.

AL2K0085

The landlord appeals the decision partially granting claims of decreased housing services and unlawful rent increase.

## E. 2009 Fulton St.

AT2K0086

The tenant appeals the decision finding a rent increase to be lawful pursuant to Rules Section 6.14.

## F. 645 Stockton St., Apt. 1100

AT2K0087







The tenants appeal the decision certifying capital improvement costs.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- X. New Business
- XI. Calendar Items
- XII. Adjournment



## ACCESSIBLE MEETING POLICY

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### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

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Ray Cabezas, has been designated to coordinate and carry out this agency’s compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

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**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, MAYOR**

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, June 20, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUN 26 2000

SAN FRANCISCO  
PUBLIC LIBRARY

**I. Call to Order**

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:15 p.m.

SHIRLEY A. BIERLY

**II. Roll Call**

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioners Present:

Bierly; Gruber; Lightner; Marshall; Mosser;  
Murphy; Wasserman.

Commissioners not Present:

Becker; Murphy.

Staff Present:

Grubb; Wolf.

Commissioner Justman appeared on the record at 6:35 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of June 6, 2000.  
(Gruber/Marshall: 5-0)

**IV. Remarks from the Public**

Robert Pender of the Tenants' Network informed the Board that a very successful meeting was held with the tenants of Parkmerced on June 9<sup>th</sup>; over 250 individuals were in attendance. Lots of signatures were collected for the two tenant initiatives being circulated for the November ballot. Because of the large crowd, there were problems regarding the fire code.

**V. Consideration of Appeals**

A. 2821 - 25<sup>th</sup> St.

AT2K0079

The tenant's petition alleging an unlawful rent increase was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant asserted that, at the time of the hearing, he was in Guatemala because his mother was gravely ill. Since the tenant's statement was not executed under penalty of perjury, it was the consensus of the Board to continue consideration of this case in order to obtain a sworn statement from the tenant and documentation regarding his having been out of the country at the time of the hearing. Nothing further was received from the tenant.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)



B. 1487 Guerrero St.

AT2K0084

The landlord's petition for certification of capital improvement costs for 5 of 6 units was granted, in part. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Hobson: 5-0)

C. 123 Sanchez St. #8

AT2K0083

The tenant's petition alleging an unlawful rent increase was granted because the Administrative Law Judge found that the tenant's rent included parking. The Board accepted the landlord's appeal and remanded the case to consider the equitable defense of laches. However, since the tape of the original hearing could not be located, and the parties disputed what was said at that hearing, a new hearing was held and a new Decision issued. In that Decision, a different Administrative Law Judge found that the tenant had failed to prove that his initial base rent included parking and that the rent increase for parking was therefore lawful as it was an additional housing service added after the commencement of the tenancy. The tenant appeals the remand decision, asserting that: the tenant was not given equal time at the hearing to respond to the landlord's slanderous allegations; documents submitted by the landlord are fraudulent; and the prior building manager routinely offered parking spaces at no additional charge when they became available

MSF: To deny the appeal. (Lightner/Gruber: 2-3; Hobson, Justman, Marshall dissenting)

MSC: To accept the appeal and hold a de novo hearing before the Board. Each side will have a maximum of one hour: 5 minutes for an opening statement; 35 minutes to present the substance of their case; 15 minutes for cross-examination; and 5 minutes for a closing statement. (Hobson/Marshall: 4-1; Gruber dissenting)

D. 2033 Turk St.

AL2K0085

The tenants' petition was granted and the landlord was found liable to the tenants in the amount of \$768.81 due to an unlawful rent increase and \$2,090.00 for decreased housing services in the unit. On appeal, the landlord maintains that the issue of the unlawful rent increase was resolved at a mediation session conducted prior to the subject hearing, and that the tenants deducted amounts owing from the landlord from their rent; and that the length of time given for rent reductions was excessive, as the services were restored shortly after notice of the defective conditions was given to the landlord by the tenants.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to determine the intent of the parties regarding their settlement of the rent overpayment issue; to make any necessary offset against amounts owing from the landlord to the tenants; and to deny the appeal as to all other issues. A hearing will be held only if necessary. (Justman/Marshall: 5-0)





E. 2009 Fulton St.

AT2K0086

The tenant's petition alleging an unlawful rent increase from \$1,300 to \$2,700 was denied because the Administrative Law Judge found that the tenant petitioner was properly served with a notice pursuant to Rules Section 6.14 and that the last original tenant had vacated the premises. On appeal, the tenant claims that: the original tenant had not relinquished possession of the premises, nor voluntarily terminated her tenancy, and that she is not precluded from maintaining two premises; while the original tenant's rights have been substantially affected by this Decision, she was never notified as to the date of the hearing and her interests were not represented; and that the landlord knew of the petitioner's occupancy of the unit for over 90 days prior to serving the 6.14 notice and acquiesced to his tenancy by adding his name to the lease.

This appeal was withdrawn prior to the meeting because the parties reached a settlement.

F. 645 Stockton St., Apt. 1100

AT2K0087

The landlord's petition for certification of capital improvement costs to 1 of 70 units was granted, resulting in a monthly passthrough in the amount of \$19.45. The tenant appeals, asserting that: although legal title to the building has changed, it has been held by the same ownership since 1984; the building was in dire need of painting at the commencement of the tenancy; and the tenants were promised that the building would be painted when they were shown the apartment prior to moving in.

MSC: To deny the appeal. (Justman/Gruber: 4-1; Hobson dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of April, 2000.

B. The Minutes of the Public Hearing Regarding the San Francisco Housing Study held on May 24, 2000 in City Hall.

VII. Director's Report

Executive Director Grubb told the Board that the departmental budget for the next fiscal year will have its first hearing on Wednesday, June 21<sup>st</sup>. If there is no increase in the annual rental unit fee that funds the department, the previously outlined personnel cuts will have to be effectuated.

VIII. New Business

President Wasserman announced that Commissioner Shirley Bierly has been appointed to the State Commission on Aging and that this will be her last Board meeting. President Wasserman expressed her heartfelt appreciation for the contributions made by Commissioner Bierly, and wished her well in her new endeavors on behalf of the entire Board.



IV. Remarks from the Public (cont.)

Robert Pender of the Tenants' Network also commended the work of Commissioner Bierly. He went on to address problems associated with the installation of a new garbage system at Parkmerced, which he feels is difficult to handle, and constitutes an "erosion of his freedom." Attorney Steven Adair MacDonald informed the Board that there had been a meeting of the State Bar Landlord/Tenant Committee regarding the "ethics" of Ellis Act evictions. Specifically, issues surrounding "bluff" evictions, where the Notice of Constraints is not recorded pursuant to settlement with the tenants, were explored. It is anticipated that the courts will ultimately decide whether such situations are actionable. Additionally, Mr. MacDonald asked for the support and assistance of the Rent Board in the research and writing of a book he is working on about the Rent Board.

X. Calendar Items

June 27<sup>th</sup> & July 4<sup>th</sup>, 2000 - NO MEETINGS

July 11, 2000

8 appeal considerations

XI. Adjournment

President Wasserman adjourned the meeting at 7:30 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
July 11, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

DOCUMENTS DEPT.

- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
- LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

JUN 26 2000

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PUBLIC LIBRARY

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 1060 Cole St. #4 AT2K0088 thru -93

One tenant appeals the decision certifying capital improvement costs.

B. 1140 Masonic Ave. AT2K0094

The tenant appeals the denial of his petition alleging decreased housing services.

C. 2395 - 34<sup>th</sup> Ave., Apt. 7 AT2K0095

One tenant appeals the decision certifying capital improvement costs on the basis of financial hardship, among other grounds.

D. 1819 Golden Gate Ave. #12 AT2K0097

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the properly noticed hearing.

E. 614 Lake St. AL2K0096

The landlord appeals the decision granting a claim of decreased housing services.



F. 360 Hyde St.

AT2K0100 thru -07

Seven tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

G. 161 & 165 Jordan Ave.

AL2K0099

The landlord appeals the decision partially granting claims of decreased housing services, unlawful rent increase and failure to repair.

H. 1278 – 26<sup>th</sup> Ave.

AT2K0098

The tenant appeals the decision granting certification of capital improvement costs and granting a Past Rent History increase for this Newly Covered Unit under Proposition I.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment





## ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

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Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





**CORRECTED NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
July 11, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

far 6/22/00  
DOCUMENTS DEPT.

corrected

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSE  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

JUN 27 2000

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**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 1060 Cole St. #4 AT2K0088 thru -93

**Six tenants** appeal the decision certifying capital improvement costs.

B. 1140 Masonic Ave. AT2K0094

The tenant appeals the denial of his petition alleging decreased housing services.

C. 2395 - 34<sup>th</sup> Ave., Apt. 7 AT2K0095

One tenant appeals the decision certifying capital improvement costs on the basis of financial hardship, among other grounds.

D. 1819 Golden Gate Ave. #12 AT2K0097

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the properly noticed hearing.

E. 614 Lake St. AL2K0096

The landlord appeals the decision granting a claim of decreased housing services.

F. 360 Hyde St.

AT2K0100 thru -07

Seven tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

G. 161 & 165 Jordan Ave.

AL2K0099

The landlord appeals the decision partially granting claims of decreased housing services, unlawful rent increase and failure to repair.

H. 1278 - 26<sup>th</sup> Ave.

AT2K0098

The tenant appeals the decision granting certification of capital improvement costs and granting a Past Rent History increase for this Newly Covered Unit under Proposition I.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment



**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,**

SHARON K. WASSERMAN

PRESIDENT

/00

POLLY MARSHALL

VICE-PRESIDENT

Tuesday, July 11, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

JUL 20 2000

SAN FRANCISCO  
PUBLIC LIBRARY**I. Call to Order**

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioner Becker called the meeting to order at 6:10 p.m.

**II. Roll Call**

Commissioners Present:

Commissioners not Present:

Staff Present:

Becker; Gruber; Hobson; Lightner; Mosser.

Justman; Marshall; Murphy; Wasserman.

Wolf.

**III. Approval of the Minutes**

MSC: To approve the Minutes of June 20, 2000.  
(Gruber/Lightner: 3-0)

**IV. Consideration of Appeals****A. 1060 Cole St. #4**

AT2K0088

The landlord's petition for certification of capital improvement costs to 7 of 9 units was granted. One tenant appeals the decision on the grounds that the Decision says that the tenant said that the roof was replaced in 1988, when it was really the landlord who said so.

MSC: To deny the appeal. (Lightner/Gruber: 3-0)

**B. 1140 Masonic Ave.**

AT2K0094

The tenant's appeal was filed 6 weeks late because the tenant was on vacation when the Decision was issued and was consulting with counsel regarding available legal options.

MSF: To find no good cause for the late filing of the appeal.  
(Lightner/Gruber: 2-1; Becker dissenting)

MSC: To find good cause for the late filing of the appeal.  
(Becker/Lightner: 3-0)

The tenant's petition alleging decreased housing services based on loss of use of the back yard, and invasions of privacy, harassment and breach of quiet enjoyment by an agent of the landlord was denied. Rent overcharges in the amount of \$80.09 were, however, determined to be owing from the landlord to the tenant. The tenant





appeals, claiming that: statements in the decision regarding the petitioner's appearance and education indicate bias on the part of the Administrative Law Judge; contradictory statements made by the landlord were not taken into account, nor were oral agreements between the parties; and sufficient weight was not given to attempted entry into the unit by the landlord without the consent of the tenants.

MSC: To deny the appeal. (Lightner/Gruber: 3-0)

C. 2395 – 34<sup>th</sup> Ave., Apt. 7

AT2K0095

The landlords' petition for certification of capital improvement costs to 8 units was granted. One tenant appeals the decision on the grounds of financial hardship and the allegations that: the Administrative Law Judge (ALJ) was biased in favor of the landlord; the landlord failed to provide proof of payment for replacement of the roof; the landlord broke the law by doing the work without permits; the ALJ accepted the landlords' statements at the hearing as proof without substantiation; the 6-Month Rule should apply to bar the passthrough as it was known that the building needed painting when she moved in and estimates for costs of the work were obtained within 6 months of her move-in date; if the building had been painted sooner, the cost would have been less; the costs of the painting should be pro-rated over the period of time she has lived in the building; the window replacement was necessitated by faulty installation and constituted repair and maintenance, and not capital improvement; the landlord should not have been given the opportunity to augment the record after the hearing; there are errors as to this tenant's rent history in the decision; and the costs of the work are excessive and the result of deferred maintenance.

MSC: To deny the appeal as to the substantive objections to the capital improvement passthrough. (Gruber/Lightner: 3-0)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Lightner: 3-0)

D. 1819 Golden Gate Ave. #12

AT2K0097

The tenant's petition alleging decreased housing services was dismissed because the tenant was 40 minutes late to the hearing. On appeal, the tenant claims to have thought that the hearing was scheduled for 3:00 p.m. instead of 1:30.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Gruber: 3-0)

E. 614 Lake St.

AL2K0096

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$550.00 due to loss of the privilege of parking in the driveway. On appeal, the landlord asserts that: permitting the tenants to use the driveway to park their car only when they were unable to find parking on the street does not constitute a housing service and any such contract between the parties would have been illegal and unenforceable; the finding that use of the driveway was included in the initial base rent for the unit was based solely on hearsay; and the tenants failed to prove the value of the limited use of the driveway as a housing service.





MSC: To accept the appeal and remand the case to consider the width of the garage and whether it is possible to legally park in the driveway in front of the garage; if it would be illegal to do so, then no decrease in housing services has occurred. If such parking would be legal, then the Administrative Law Judge shall re-evaluate the value of such parking. The parties are encouraged to provide evidence as to the value of parking in the neighborhood. A hearing will be held only if necessary. (Lightner/Gruber: 3-0)

F. 360 Hyde St.

AT2K0100 thru -07

The landlord's petition for certification of capital improvement costs to 28 of 41 units was granted, in part. Seven tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals of the tenants in unit numbers 407, 103, 304, 302, 406, 403, 201 and 306 and remand the cases for hearing on the tenants' financial hardship claims. (Becker/Lightner: 3-0)

G. 161 & 165 Jordan Ave.

AL2K0099

The tenants in five of the 8 units in the building filed petitions alleging decreased housing services and unlawful rent increases, which claims were partially granted. Within 15 days after the Decision of the Administrative Law Judge was issued, the landlord's son wrote the Board a letter requesting an extension of the appeal deadline because of his father's having been bedridden due to ill health at that time. Now, two months later, the son reports that his father has been hospitalized, and requests that his father be allowed to file an untimely appeal at such time as he is released from the hospital.

MSC: To accept the landlord's request and allow him 6 months from the date of tonight's meeting, or until no later than January 11, 2001, to pursue his appeal. (Becker/Gruber: 3-0)

H. 1278 - 26<sup>th</sup> Ave.

AT2K0098

The landlord's petition for certification of capital improvement costs and a rent increase based on the Past Rent History of this Newly Covered Unit under Proposition I was granted. The tenant appeals, claiming that: he received notice of the rent increases prior to the petitions having been filed; the allocation of costs for the new roof and exterior paint is unfair because his unit is significantly smaller than the other unit in the building, in which the landlord resides; the skylights were not incidental to the roof replacement and those costs should not have been certified; and the cost of the new heater should not be certified since it does not add value to the building.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to disallow the cost of the skylight replacement, but to allow an amount commensurate with the cost of re-roofing that area; the appeal is denied as to all other issues. A hearing will be held only if necessary. (Lightner/Gruber: 3-0)

V. Communications



In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Request for Proposal and Housing Study Protocol Documents.

B. A current list of amendments to the Rent Ordinance.

C. The office workload statistics for the month of May, 2000.

D. An Order Denying Petition for Writ of Mandate from Judge David Garcia in the case of Danekas v. Rent Board (Superior Court Case No. 310104), which challenged Rules and Regulations Section 6.15, pursuant to amendments to the Rent Ordinance introduced by Supervisor Leno.

VI. Remarks from the Public

A. Bernard Kibbe, the tenant at 1060 Cole #4 (AT2K0088), informed the Board that the roof on his building was replaced while he was on Section 8, and he also received a rent increase at that time. He therefore feels like he is paying for this improvement twice.

B. Lillian Brumley asked what constituted landlord hardship.

C. Jeff Woo of the Tenants' Union inquired as to who would be responsible for the cost of a new skylight if the roof on the building was not replaced at the same time.

VII. New Business

Commissioner Hobson asked that he not received any further letters from one specific tenant at Parkmerced who is objecting to the landlord's petition for rent increases based on increased operating expenses in a scurrilous manner. The Deputy Director suggested that any Commissioners who shared Commissioner Hobson's feelings just not open the letters.

VIII. Calendar Items

July 18 & 25, 2000- NO MEETINGS

August 1, 2000

8 appeal considerations

6:30 Appeal Hearing: 123 Sanchez St. #8 AT2K0083 (acpt. 6/20/00)

IX. Adjournment

Commissioner Becker adjourned the meeting at 7:25 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
August 1, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

DOCUMENTS DEPT.

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order  
II. Roll Call  
III. Approval of the Minutes  
IV. Remarks from the Public

JUL 20 2000

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- V. Consideration of Appeals

A. 1301 Leavenworth St. AL2K0109

The landlord appeals the denial of a Petition for Extension of Time to Do Capital Improvement Work.

B. 1369 Hyde St. #73 AL2K0110

The landlord appeals the decision granting a claim of unlawful rent increase pursuant to Rules and Regulations Section 6.14.

C. 1169 Pacific Ave. AL2K0111

The landlord appeals the decision granting a claim of decreased housing services.

D. 436 B Haight St. AT2K0114, AL2K0113

The landlord and tenant appeal the decision granting claims of decreased housing services.

E. 1080 Post St. AL2K0112

The landlord appeals the denial of a petition for rent increase based on Costa-Hawkins and Rules Section 6.14.

F. 1025 Post St., Apt. 47 AL2K0117



The landlord asserts that the Decision granting a claim of decreased housing services is in error as to the amount of the base rent.

G. 1572 – 36<sup>th</sup> Ave.

AT2K0116

The tenant appeals the dismissal of two petitions alleging unlawful rent increase due to his failure to appear at the properly noticed hearing.

H. 34 Lloyd St.

AL2K0115

The landlord appeals the decision granting a claim of unlawful rent increase.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IX. Remarks from the Public (cont.)

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- X. New Business
- XI. Calendar Items
- XII. Adjournment





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**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, MAYOR**

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, August 1, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

**I. Call to Order**

AUG - 8 2000

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Commissioner Becker called the meeting to order at 6:07 p.m.

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PUBLIC LIBRARY

**II. Roll Call**

Commissioners Present: Becker; Gruber; Lightner.  
Commissioners not Present: Hobson; Marshall; Mosser; Murphy;  
Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:28 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of July 11, 2000.  
(Gruber/Lightner: 3-0)

**IV. Remarks from the Public**

- A. Lynn Elman, the landlord in the case at 436 B Haight St. (AT2K0114; AL2K0113), said that she didn't defend herself against a claim raised by the tenant at the arbitration hearing because she was told by the Administrative Law Judge during a Mediation that the issue wasn't viable. She told the Board that she was just trying to enhance her building, and not move people out.
- B. Tom Hilton, a former tenant at 1169 Pacific (AL2K0111), informed the Board that the landlord was successful in his Unlawful Detainer action and that it was Mr. Hilton's opinion that the "perjurious" statements in the landlord's appeal were instrumental, and part of the landlord's strategy.
- C. Miguel Fernandez appeared on behalf of Lynn Elman, and expressed his opinion that she is one of the best landlords in the neighborhood.
- D. Summer Graham also spoke on behalf of Lynn Elman, saying that she missed Ms. Elman's "availability in the community."
- E. Robert Ayala said that Ms. Elman's shop is no longer open regularly because of the renovation work and the stress of the Rent Board case.

**V. Consideration of Appeals**



A. 1301 Leavenworth St.

AL2K0109

The landlord's petition for extension of time to do capital improvement work was denied because the landlord failed to file the petition prior to serving the notices to vacate, as required by Rules Section 12.15(e)(1), although he knew at that time that the work would take longer than three months to complete. On appeal, the landlord claims that: the landlord alternatively relied on Rules Section 12.15(e)(2), which requires that the landlord file the petition after giving the notice to vacate if the landlord then realizes that the work will take longer than three months to complete; the landlord satisfied his burden of proving that the work would reasonably take more than three months to complete; and the landlord acted pursuant to a Superior Court order to undertake the rehabilitation work and should not be exposed to liability by the Rent Board for having done so.

MSC: Based on the facts of this case, to waive the requirements of Rules and Regulations Section 12.15(e)(1), vacate the Decision of the Administrative Law Judge and grant the landlord's Petition for Extension of Time.  
(Lightner/Gruber: 3-0)

B. 1169 Pacific Ave.

AL2K0111

The tenants' petition alleging a substantial decrease in housing services due to the loss of use of the rooftop area and amenities was granted and the landlord, who had failed to appear at the hearing, was found liable to the tenants in the amount of \$4,500.00. On appeal, the landlord claimed that the Rent Board acted negligently in sending the Notice of Rescheduled Hearing to an old address which was provided by the tenants. The landlord's appeal was filed 3 months late because the landlord was engaged in settlement negotiations with the tenants pursuant to an owner move-in eviction lawsuit.

MSC: To find no good cause for the late filing of the appeal. The Decision is therefore final. (Becker/Justman: 4-0)

C. 1369 Hyde St. #73

AL2K0110

The tenants' petition alleging an unlawful increase in rent from \$1,206.06 to \$3,800.00 per month was granted because the Administrative Law Judge determined that the tenants commenced occupancy prior to January 1, 1996 and an original tenant still remained on the premises; therefore, the landlord was not entitled to an increase pursuant to Costa-Hawkins nor Rules Section 6.14. On appeal, the landlord argues that: the Decision is based solely on Rules and Regulations Section 6.14, with no weight given to the landlord's arguments regarding contracts and case law; the Decision was based on hearsay; the Administrative Law Judge proceeded as though it were the respondent who had the burden of proof in this case; the tenant should not acquire the status of "original tenant" by misrepresenting herself as one; the landlord did not waive his right to raise the rent by failing to do so, because he did not have actual knowledge that the last original tenant had vacated the unit; and the Decision is based on equity, and ignores the written contracts between the parties.

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Lightner/Becker: 4-0)



MSF: To deny the appeal. (Becker/Justman: 2-1; Gruber dissenting)

Due to the lack of a voting majority, consideration of this appeal was continued to the August 15<sup>th</sup> meeting.

D. 436 B Haight St.

AT2K0114;AL2K0113

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$768.50. On appeal, the landlord asserts that the amount of the rent reduction granted due to decreased lighting is excessive and for too long a period of time; the tenant has received additional services due to the construction work performed on the premises; there are certain erroneous statements in the Decision; and the tenant contributed to the untidy condition of the yard, although the landlord does not appeal the amount granted as to this issue. The tenant also appeals, maintaining that her claims of elimination of privacy and quiet enjoyment, mailbox problems, interruption of gas service, unauthorized entry and harassment were not sufficiently looked at by the Administrative Law Judge.

MSF: To deny the appeal except to remand the case to the Administrative Law Judge on the record for a correction as to the commencement date of the rent reduction for the loss of natural light. (Justman/Becker: 2-2; Gruber, Lightner dissenting)

Due to the lack of a majority vote, this appeal was continued to the August 15<sup>th</sup> meeting.

E. 1080 Post St.

AL2K0112

The landlord's petition seeking a determination as to whether the rent for the unit could be raised to "market" based on Costa-Hawkins and Rules Section 6.14 was denied. The Administrative Law Judge (ALJ) determined that a rent increase given during a period when the original tenant had vacated the unit, but family members were residing there, constituted the rent increase that the landlord was allowed pursuant to Costa-Hawkins. The landlord appeals, claiming that: the tenants coached each other to ensure that their responses matched each others' at the hearing; it was inappropriate for the ALJ to attempt to ascertain the amount of the rent increase the landlords were intending to impose; the Decision is in error regarding the circumstances surrounding the first rent increase given by the landlord; the Rent Board Rules and Regulations require that a 6.14 notice be served upon the tenant prior to a rent increase being issued pursuant to Costa-Hawkins, and the landlord had not served such a notice at the time the first rent increase was given; the landlord's acceptance of rent should not operate as a waiver of their right to raise the rent because no written notice was given of the subtenants' occupancy of the unit; the Decision is incorrect in stating that a 3-Day Notice to Pay Rent or Quit was issued for the amount of the first rent increase, rather than the subsequent increase to market rent; and it is illogical to conclude that the earlier rent increase constituted the Costa-Hawkins increase when other units in the building were renting for a much higher rate at that time.

MSF: To deny the appeal. (Becker/Justman: 2-2; Gruber, Lightner dissenting)







Due to the lack of a voting majority, consideration of this appeal was continued to the August 15<sup>th</sup> meeting.

F. 1025 Post St., Apt. 47

AL2K0117

The tenant's petition alleging a substantial decrease in services because of a conversion from central heat paid by the landlord to electric heat paid by the tenant was granted and the landlord was found liable to the tenant in the amount of \$66.22 per month. The landlord's appeal on the grounds that the amount granted did not reflect the tenant's actual usage of electricity was granted, and the amount granted pursuant to the Decision on Remand was reduced to \$25.22 per month. The landlord again appeals, asserting that there is a typographical error in the remand decision as to the amount of the tenant's monthly rent payment.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

G. 1572 – 36<sup>th</sup> Ave.

AT2K0116

Two petitions alleging unlawful rent increase were dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant explains the many reasons for his late arrival.

MSC: To deny the appeal. (Lightner/Justman: 4-0)

H. 34 Lloyd St.

AL2K0115

The tenant's petition alleging an unlawful rent increase from \$328.00 to \$950.00 was granted because the Administrative Law Judge found that the petitioner was a tenant, and not an assignee, and therefore the rent increase was not warranted pursuant to the Costa-Hawkins Rental Housing Act. On appeal, the landlord maintains that: a subjective description of the petitioner's personal status in the Decision has the appearance of bias; the petitioner failed to seek permission to move into the unit from the landlord, and did not inform the landlord of her status as a roommate in the unit; and the petitioner is attempting to take advantage of the elderly landlady in this case.

MSF: To deny the appeal. (Becker/Justman: 2-2; Gruber, Lightner dissenting)

Due to the lack of a majority vote, this case was continued to the August 15<sup>th</sup> Board meeting.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a Memo from the Mayor, informing them that they must relinquish their appointed position if they are a candidate for public office in November.

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that the Ordinance increasing the annual rental unit fee by \$3.00, which will be paid by landlords on a one-time basis, was introduced a couple of weeks ago. The Department's corresponding Supplemental Appropriation was introduced yesterday at the Board of Supervisors



and will go before the Finance Committee on August 9<sup>th</sup>. If the fee increase is approved, the layoff date for 6 of the Administrative Law Judges (3 full-time equivalents) will be January 8, 2001.

IV. Remarks from the Public (cont.)

- F. A landlord asked questions concerning exemption of single family dwellings from rent control pursuant to Costa-Hawkins.
- G. Robert Pender announced a meeting of the Tenants' Network, specifically for the tenants at Parkmerced, to be held on August 6<sup>th</sup> at 1:00 p.m. in Room 250 at S.F. State.
- H. Lynn Elman made several more comments concerning the case at 436 B Haight St. (AL2K0113; AT2K0114), alleging that the tenant provided false evidence. Ms. Elman believes that there is nothing she could have done to produce a different result, and feels that housing services should be evaluated in the context of the whole apartment.
- I. Lisa Chavez, the tenant in the case at 436 B Haight Street, told the Board that it has been one year since the construction work began, but it is still not finished. She said that she has lost storage and natural light throughout the unit, and that she would not have rented the unit in its current condition. She believes that the landlord is trying to drive her out.
- J. Miguel Fernandez said, on behalf of Lynn Elman, that he sees nothing wrong with the condition of the back yard.
- K. Summer Graham stated her belief that Lynn Elman has been sensitive while undergoing the remodeling project, including putting in larger windows to increase the light in the unit.

VIII. Calendar Items

August 8, 2000 - NO MEETING

August 15, 2000

4 appeal considerations (cont. from 8/1/00)

6:30 Appeal Hearing: 123 Sanchez #8 AT2K0083 (acpt. 6/20/00)

August 22, 2000

9 appeal considerations

IX. Adjournment

Commissioner Becker adjourned the meeting at 8:30 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
August 22, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

for 8/7/00  
DOCUMENTS DEPT.

AUG - 8 2000

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order  
II. Roll Call  
III. Approval of the Minutes  
IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.

- V. Consideration of Appeals

A. 1418 Larkin #12 AT2K0118

One tenant appeals the decision certifying capital improvement costs.

B. 995 Guerrero #3 AT2K0119

The tenant appeals the decision finding that the building is exempt from  
rent control because it was constructed after the adoption of the Rent  
Ordinance.

C. 1310 Sloat Blvd. AT2K0120

The tenant appeals the decision certifying capital improvement costs on  
the grounds of financial hardship.

D. 2698 Filbert St. AL2K0121

The landlord appeals the decision certifying capital improvement costs  
due to the allocation of the cost of rebuilding a porch to all 6 units in the  
building.

E. 466 Castro St. AL2K0124

The landlord appeals the remand decision granting rent reductions due  
to decreased housing services.

F. 2112 Baker St. AT2K0122 & -23



Two tenants appeal the decision certifying capital improvement costs.

G. 1925 Chesnut St., Apt. 9

AT2K0125

The tenant appeals the dismissal of her petition claiming decreased housing services due to a defective mailbox.

H. 1106 Plymouth Ave., Apt. 4

AT2K0126

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the properly noticed hearing.

I. 4220 Cesar Chavez #425, 101 & 314

AT2K0127 thru -29

Three tenants appeal the remand decision certifying capital improvement costs; one on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment





## **ACCESSIBLE MEETING POLICY**

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

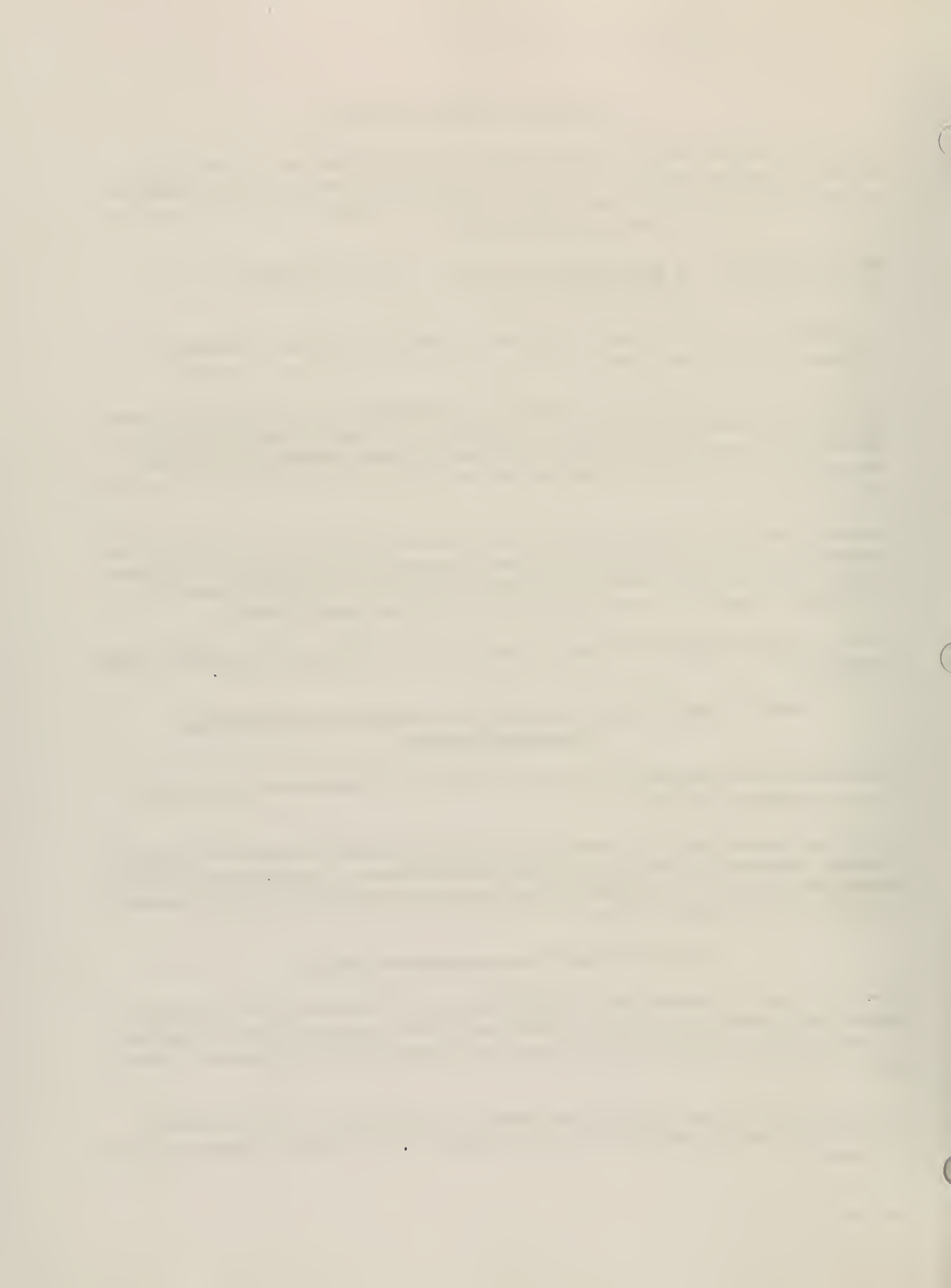
The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.

MAYOR

JOSEPH GRUBB

EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, August 22, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

AUG 30 2000

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON

President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Commissioners Present:  
Commissioners not Present:  
Staff Present:

Becker; Hobson; Mosser; Wasserman.  
Justman; Lightner; Marshall.  
Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:16 p.m.; Commissioner Murphy arrived at the meeting at 6:26 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 1, 2000.  
(Becker/Mosser: 3-0)

IV. Remarks from the Public

Tenant Stanley Sim, involved in the case at 4220 Cesar Chavez Street (AT2K0127 thru -29), told the Board that he did not think it fair that he now has to pay for the landlord's having done work that was promised to him prior to his having moved in. The tenant involved in the case at 466 Castro Street (AL2K0124) informed the Commissioners that the conditions at his building are worse than ever, even though the landlord has been brought before two Director's Hearings at the Department of Building Inspection.

V. Consideration of Appeals

A. 1418 Larkin #12

AT2K0018

The landlord's petition for certification of capital improvement costs for 8 of 12 units due to seismic work in the building was granted. One tenant appeals, alleging that a mistake as to his base rent amount in the notice of capital improvement passthrough should render the notice null and void.

MSC: To deny the appeal, except to remand the case to the  
Administrative Law Judge on the record for a Technical Correction  
as to the correct amount of the tenant's base rent, if necessary.  
(Becker/Wasserman: 3-0)



B. 995 Guerrero #3

AT2K0019

The tenant's petition alleging unlawful rent increase was denied because the building was determined to be exempt as new construction in a prior Rent Board Decision and the Administrative Law Judge ruled that the issue was *res judicata*. The tenant appeals, claiming to have additional evidence proving that the property does not constitute new construction.

This appeal was withdrawn shortly before the meeting.

C. 1310 Sloat Blvd.

AT2K0120

The landlord's petition for certification of capital improvement costs for one unit, a single family residence, was granted. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Wasserman: 3-0)

D. 2698 Filbert St.

AL2K0121

The landlord's petition for certification of capital improvement costs to 4 of 6 units was granted. The landlord appeals the Administrative Law Judge's allocation of the cost of rebuilding a porch to all 6 units in the building, asserting that: since there are several other exits from the building, use of the porch by other tenants to reach the roof in the event of an emergency is extremely unlikely; only one cable line goes through the porch; it is unfair to assess this charge against the other units in the building, since those tenants will probably never use this porch; and, at a minimum, he should be allowed to amend his petition to obtain compensation from the other tenants found to have benefited from the rebuilding of the porch.

MSC: To accept the appeal and remand the case to allow the landlord to amend his petition in order to allocate the cost of rebuilding the porch to all six units in the building. (Gruber/Wasserman: 3-0)

E. 466 Castro St.

AL2K0124

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$3,595.00 due to serious habitability defects on the premises. The landlord's appeal was accepted and the case was remanded for another hearing. In the Decision on Remand, the Administrative Law Judge found the majority of the conditions unabated and the landlord's liability increased to \$5,250.00 due to the passage of additional time since issuance of the first decision. The landlord again appeals, claiming that the Decision constitutes an abuse of discretion, in that it was not supported by the record or evidence provided by the parties.

MSC: To deny the appeal. (Becker/Wasserman: 3-0)

F. 2112 Baker St.

AT2K0122 & -23

The landlord's petition for certification of capital improvement costs to 2 of 3 units was granted. The tenants appealed on the grounds that they had not been afforded an opportunity to respond to one of the landlord's post-hearing submissions, among





other claims. The appeal was accepted only in order to give the tenants an opportunity to respond to the landlord's submission, which they failed to do, so the decision remained unchanged on remand. The tenants now appeal the remand decision, providing evidence that they responded by referring the Administrative Law Judge to evidence they had previously submitted with their appeal.

MSC: To deny the appeals. (Murphy/Gruber: 3-1; Becker dissenting)

G. 1925 Chesnut St., Apt. 9

AT2K0125

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received notice of the hearing due to a defective mailbox, which was the claim in her petition.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Wasserman: 3-1; Gruber dissenting)

H. 1106 Plymouth Ave., Apt. 4

The tenant's petition alleging decreased housing services and an unlawful rent increase was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that the electrical power service to his unit was interrupted the night before the hearing, so that his alarm clock failed to go off, and he overslept.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Wasserman: 4-0)

I. 4220 Cesar Chavez #425, 101 & 314

AT2K0127 thru -29

The landlord's petition for certification of capital improvement costs to 30 of 36 units was granted, in part. Twelve tenants appealed the Decision and the case was remanded to the Administrative Law Judge to determine which, if any, of the capital improvements were waived by the landlord at the hearing; whether the evidence that the roof door alarms were not installed as of the date of the hearing stands alone, or needs corroboration; and to examine whether the fire escape retrofit should be treated as a common area improvement. The Administrative Law Judge determined that the original decision should not be modified on remand. Three tenants appeal the remand decision. The tenant in unit #314 asserts that the estimator's testimony is problematic and erroneous in several areas; that, to the tenants' best knowledge, the doors were not replaced on the boiler storage room; and the landlord should not be entitled to interest since no funds were borrowed. The tenant in unit # 425 claims that the remand decision is in contravention of a previous decision granting the tenants rent reductions due to serious habitability problems on the premises; that the work does not constitute capital improvements; and the work was necessitated by the landlord's deferred maintenance. The tenant in unit # 101 appeals on the ground of financial hardship and also asserts that: the estimator's report is in error and the alarms were not installed until a day or two after the hearing; the electrical work in her unit was less extensive than the amount petitioned for, necessitated by neglect on the part of the landlord's agent and constituted repair rather than capital improvement; and the tenants should not have to pay for remedying hazardous conditions that they suffered with for many years, and for which they were granted rent reductions.





MSC: To deny the appeal of the tenant in unit #314. (Murphy/Gruber: 3-1; Hobson dissenting)

MSC: To deny the appeal of the tenant in unit #425. (Murphy/Gruber: 3-1; Hobson dissenting)

MSC: To deny the appeal based on substantive objections of the tenant in unit #101. (Murphy/Gruber: 3-1; Hobson dissenting)

MSC: To accept the hardship appeal of the tenant in unit #101 and remand the case for a hearing on the tenant's claim of financial hardship. (Wasserman/Gruber: 4-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from landlord Bill Quan regarding the appeal concerning the case at 730 Stockton St. #43 (AL2K0020), considered by the Board on April 4, 2000, stating that he has new evidence and asking that the Commissioners reconsider their denial of his appeal.

B. A letter from tenant Jason Sayler of 1572 – 36<sup>th</sup> Ave. (AT2K0116) supplementing his appeal, which was denied at the August 1<sup>st</sup> Board meeting.

C. The Annual Statistical Report on Filings at the Rent Board for the fiscal year 1999-2000.

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that several landlord petitions seeking a Fair Return have been filed recently. Additionally, an Initiative that will be on the November ballot prohibits certification of capital improvement costs unless the landlord can prove that they are not receiving a fair return. It was the consensus of the Board that Rules and Regulations should be promulgated to address this issue. To that end, President Wasserman asked that staff prepare a packet for the Commissioners, including: a summary of important court cases in this area; copies of any such cases; and an outline of how other rent controlled jurisdictions handle this issue. She suggested that staff contact landlords who have petitions on file and ask if they wish to withdraw and re-file upon the adoption of Rules and Regulations.

#### IV. Remarks from the Public (cont.)

Landlord Lisa Ng asked several general questions regarding landlord-tenant law, including what a landlord should do when a tenant refuses to provide access to a rental unit.

#### VIII. Calendar Items

August 29, 2000 - NO MEETING



September 5, 2000

9 appeal considerations (4 cont. from 8/1/00)

6:30 Appeal Hearing: 123 Sanchez St. #8 (AT2K0083) (acpt. 6/20/00)

XI. Adjournment

President Wasserman adjourned the meeting at 7:08 .m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
September 5, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

8/29/00  
DOCUMENTS DEPT.

**AGENDA**

AUG 30 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

V. Consideration of Appeals

A. 1369 Hyde St. #73

AL2K0110  
(cont. from 8/1/00)

The landlord appeals the decision granting a claim of unlawful rent increase pursuant to Rules and Regulations Section 6.14.

B. 436 B Haight St.

AT2K0114; AL2K0113  
(cont. from 8/1/00)

The landlord and tenant appeal the decision granting claims of decreased housing services.

C. 1080 Post St.

AL2K0112  
(cont. from 8/1/00)

The landlord appeals the denial of a petition for rent increase based on Costa-Hawkins and Rules Section 6.14.

D. 34 Lloyd St.

AL2K0115  
(cont. from 8/1/00)

The landlord appeals the decision granting a claim of unlawful rent increase.

E. 2033 Turk St.

AL2K0131

The landlord appeals the remand decision granting claims of unlawful rent increase and decreased housing services.



F. 436 Fell St.

AL2K0130

The landlord appeals the decision granting one tenant's claim of unlawful rent increase.

G. 1593 McAllister #301

AT2K0132

The tenant appeals the dismissal of his petition alleging decreased housing services.

H. 223 Lily St.

AL2K0134

The landlord appeals the decision partially granting certification of capital improvement costs.

I. 300 Hyde St.

AL2K0133

The landlord appeals the denial of a petition for certification of the costs of a seismic retrofit project which the Administrative Law Judge found to have been untimely filed.

VI. Appeal Hearing

6:30 123 Sanchez St. #8

AT2K0083 (acpt. 6/20/00)

The tenant appeals the remand decision denying a claim of unlawful rent increase on a parking space.

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment





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SHARON K. WASSERMAN  
PRESIDENT  
POLLY MARSHALL  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, September 5, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:12 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Gruber; Hobson; Marshall;  
Wasserman.

Commissioners not Present: Justman; Lightner; Mosser.

Staff Present: Grubb; Winslow; Wolf.

Commissioner Murphy appeared on the record at 6:17 p.m.

DOCUMENTS DEPT.

III. Approval of the Minutes

SEP 15 2000

MSC: To approve the Minutes of August 22, 2000.  
(Becker/Gruber: 4-0)

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IV. Remarks from the Public

- A. Lynn Elman, the landlady involved in the case at 436 B Haight St. (AT2K0114; AL2K0113), informed the Board that the period that the premises were without a roof was one month, and not 4 months; that the color photos showed the real situation regarding the lack of natural light in the unit; and that the rent reduction in the amount of \$50.00 per month would present her with a hardship.
- B. Karen Uchiyama, attorney for the landlord in the case involving 1369 Hyde St. #73 (AL2K0110), stated her opinion that the Administrative Law Judge had mischaracterized the case as a simple 6.14 case, when it was a question of interpretation of contracts.
- C. Tanya Ridgley spoke on behalf of Lynn Elman, saying that she had watched Ms. Elman be adversely affected by her dealings with the tenants at the property, and that the situation was unhealthy and exhausting.
- D. Lena Lettinger, the tenant in the other unit at 436 Haight St., spoke in support of the tenant appellant, Lyza Chavez', claim. She cited "disrespectful" behavior on the part of the landlady, and said that there had previously been direct sunlight into the units from March through October, but now there was none.



- E. Lyza Chavez, the tenant at 436 B Haight St., said that she had tried to accommodate the construction project by switching her schedule. Ms. Chavez believes that the landlord's pattern of attempted entry without notice and other harassing incidents were done with the intention of driving the tenants out.
- F. Peter Fatooh, representative of the landlord at 34 Lloyd St. (AL2K0115), maintained that: the marital status of the tenant in the case was irrelevant and cited by the Administrative Law Judge to evoke sympathy, whereas the fact that the landlady is 80 years old was never brought up. Mr. Fatooh informed the Board that the tenant's \$328.00 rent will lead to sale of the building and probable removal of the rental units via the Ellis Act.
- G. Mark Entieri, attorney for Chandler Properties, asked that the Board correct the record in the case at 1369 Hyde St., because Chandler Properties is only the agent for the landlord, and not the landlord. He also stated his opinion that the case should be remanded to determine market rent for the unit in March, 1996.
- H. Robert Sheppard, attorney for the tenants at 1369 Hyde, complemented the professionalism of Administrative Law Judge Lela Harris, who decided the case.

V. Consideration of Appeals

A. 1369 Hyde St. #73

AL2K0110  
(cont. from 8/1/00)

The tenants' petition alleging an unlawful increase in rent from \$1,206.06 to \$3,800.00 per month was granted because the Administrative Law Judge determined that the tenants commenced occupancy prior to January 1, 1996 and an original tenant still remained on the premises; therefore, the landlord was not entitled to an increase pursuant to Costa-Hawkins nor Rules Section 6.14. On appeal, the landlord argues that: the Decision is based solely on Rules and Regulations Section 6.14, with no weight given to the landlord's arguments regarding contracts and case law; the Decision was based on hearsay; the Administrative Law Judge proceeded as though it were the respondent who had the burden of proof in this case; the tenant should not acquire the status of "original tenant" by misrepresenting herself as one; the landlord did not waive his right to raise the rent by failing to do so, because he did not have actual knowledge that the last original tenant had vacated the unit; and the Decision is based on equity, and ignores the written contracts between the parties.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Marshall/Becker: 5-0)

MSC: To deny the appeal, except to remand the case on the record to correct the caption to the Decision, since Chandler Properties is the agent for the landlord, but not the landlord in the case.  
(Becker/Marshall: 3-1; Gruber dissenting)



B. 436 B Haight St.

AT2K0114; AL2K0113  
(cont. from 8/1/00)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$768.50. On appeal, the landlord asserts that the amount of the rent reduction granted due to decreased lighting is excessive and for too long a period of time; the tenant has received additional services due to the construction work performed on the premises; there are certain erroneous statements in the Decision; and the tenant contributed to the untidy condition of the yard, although the landlord does not appeal the amount granted as to this issue. The tenant also appeals, claiming that her claims of elimination of privacy and quiet enjoyment, mailbox problems, interruption of gas service, unauthorized entry and harassment were not sufficiently looked at by the Administrative Law Judge.

MSC: To deny the tenant's appeal. To accept the landlord's appeal only to remand the case to the Administrative Law Judge on the record in order to correct the commencement date for the rent reduction due to loss of natural light to October 1, 1999. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

C. 34 Lloyd St.

AL2K0115  
(cont. from 8/1/00)

The tenant's petition alleging an unlawful rent increase from \$328.00 to \$950.00 was granted because the Administrative Law Judge found that the petitioner was a tenant, and not an assignee, and therefore the rent increase was not warranted pursuant to the Costa-Hawkins Rental Housing Act. On appeal, the landlord maintains that: a subjective description of the petitioner's personal status in the Decision has the appearance of bias; the petitioner failed to seek permission to move into the unit from the landlord, and did not inform the landlord of her status as a roommate in the unit; and the petitioner is attempting to take advantage of the elderly landlady in this case.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

D. 223 Lily St.

AL2K0134

The landlord's petition for certification of the costs of new rear stairs and a new roof was granted. The landlord appeals denial of a \$300 expenditure for removal of a chimney, asserting that the cost was incurred in conjunction with the roof work, and that removal of the chimney constituted an upgrade to the roof.

MSC: To recuse Commissioner Hobson from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To accept the landlord's appeal and remand the case to the Administrative Law Judge on the record to certify the costs associated with removal of the chimney. (Murphy/Gruber: 5-0)

E. 300 Hyde St.

AL2K0133





The landlord's petition for certification of the costs of a seismic retrofit project was denied because the Administrative Law Judge found that the petition had been filed more than five years after completion of the work. On appeal, the landlord claims that the warranty for the roof is the proof of the completion date; and that the landlord will provide additional signed affidavits from the roof company and previous building manager to prove that the new roof was part of the retrofit project.

MSC: To accept the landlord's appeal and remand the case to the Administrative Law Judge on the record only to certify the costs of the new roof. (Becker/Marshall: 5-0)

F. 1080 Post St.

AL2K0112  
(cont. from 8/1/00)

The landlord's petition seeking a determination as to whether the rent for the unit could be raised to "market" based on Costa-Hawkins and Rules Section 6.14 was denied. The Administrative Law Judge (ALJ) determined that a rent increase given during a period when the original tenant had vacated the unit, but family members were residing there, constituted the rent increase that the landlord was allowed pursuant to Costa-Hawkins. The landlord appeals, claiming that: the tenants coached each other to ensure that their responses matched each others' at the hearing; it was inappropriate for the ALJ to attempt to ascertain the amount of the rent increase the landlords were intending to impose; the Decision is in error regarding the circumstances surrounding the first rent increase given by the landlord; the Rent Board Rules and Regulations require that a 6.14 notice be served upon the tenant prior to a rent increase being issued pursuant to Costa-Hawkins, and the landlord had not served such a notice at the time the first rent increase was given; the landlord's acceptance of rent should not operate as a waiver of their right to raise the rent because no written notice was given of the subtenants' occupancy of the unit; the Decision is incorrect in stating that a 3-Day Notice to Pay Rent or Quit was issued for the amount of the first rent increase, rather than the subsequent increase to market rent; and it is illogical to conclude that the earlier rent increase constituted the Costa-Hawkins increase when other units in the building were renting for a much higher rate at that time.

MSF: To deny the appeal. (Marshall/Becker: 2-3; Gruber, Murphy, Wasserman dissenting)

MSC: To accept the appeal and remand the case for a hearing to take evidence on the rent history and the circumstances surrounding the rent increase to \$510.00; both parties are encouraged to provide translation at the hearing. (Murphy/Wasserman: 5-0)

G. 2033 Turk St.

AL2K0131

The tenants' petition was granted and the landlord was found liable to the tenants in the amount of \$768.81 due to an unlawful rent increase and \$2,090.00 for decreased housing services in the unit. On appeal, the landlord maintained that the issue of the unlawful rent increase was resolved at a mediation session conducted prior to the subject hearing, and that the tenants deducted amounts owing from the landlord from their rent; and that the length of time given for rent reductions was excessive, as the services were restored shortly after notice of the defective conditions was given to the landlord by the tenants. The landlord's appeal was accepted and remanded to the Administrative Law Judge to determine the intent of



the parties with respect to the rent overpayment issue, and make any necessary offset against amounts owing from the landlord to the tenants. In the Decision on Remand, the landlord's liability was reduced by the amount already deducted by the tenants from their rent. The landlord appeals the remand decision as to the length of time granted for rent reductions due to decreased housing services, claiming not to have received notice of the conditions until receipt of written notice and/or a Notice of Violation from the Department of Building Inspection.

MSC: To deny the appeal. (Becker/Murphy: 5-0)

H. 436 Fell St.

AL2K0130

One tenant's petition alleging an unlawful rent increase was granted because the Administrative Law Judge found that no 6.14 notice had been served on the tenant, although the landlord had known of his occupancy in the subject unit and accepted rent from him for an 18 month period. Additionally, no increase was justified pursuant to Costa-Hawkins because the tenant was not a subtenant or assignee, and resided in the unit pursuant to an agreement with the landlord. A petition filed by another occupant of the unit was denied due to lack of standing, because there was no evidence that that tenant had a rental agreement directly with the landlord. On appeal, the landlord claims that the lease that was tendered with the tenant is not in effect, because the tenants allegedly did not sign and return it for 18 months; and that a letter was sent informing the tenant that he was not the Master Tenant and that the lease between the original occupants of the unit was still in effect. The landlord maintains that a new tenancy was therefore established and he should have the right to raise the rent to market.

MSC: To deny the appeal. (Marshall/Becker: 4-1; Gruber dissenting)

I. 1593 McAllister #301

AT2K0132

The tenant's petition alleging decreased housing services was dismissed because the tenant arrived 3 hours late for the hearing. On appeal, the tenant, who no longer resides in the unit, claims not to have received notice of the hearing because it was mailed to the wrong address.

MSC: To deny the appeal without prejudice to re-filing; since he has vacated the unit, the tenant is advised to consult with a Rent Board staff member regarding enforcement of the Decision prior to re-filing. (Murphy/Becker: 4-1; Gruber dissenting)

#### A. Appeal Hearing

123 Sanchez St. #8

AT2K0083  
(acpt. 6/20/00)

The tenant's petition alleging an unlawful rent increase was granted because the Administrative Law Judge found that the tenant's rent included parking. The Board accepted the landlord's appeal and remanded the case to consider the equitable defense of laches. However, since the tape of the original hearing could not be located, and the parties disputed what was said at that hearing, a new hearing was held and a new Decision issued. In that Decision, a different Administrative Law Judge found that the tenant had failed to prove that his initial base rent included parking and that the rent increase for parking was therefore lawful as it was an



additional housing service added after the commencement of the tenancy. The tenant appealed the remand decision, asserting that: the tenant was not given equal time at the hearing to respond to the landlord's slanderous allegations; documents submitted by the landlord were fraudulent; and the prior building manager routinely offered parking spaces at no additional charge when they became available. The tenant's appeal was accepted for a de novo Board hearing, with each side instructed that they had no more than one hour to present their case.

The appeal hearing commenced at 7:30 p.m. and concluded at 9:45 p.m. In attendance were the tenant, the landlord, the landlord's attorney and witnesses for the landlord. The tenant testified that he was led to believe by the prior resident manager that his initial base rent included parking, although a space would not become available until a later date. Therefore, the \$85.00 charge for parking constituted an unlawful rent increase. The landlady asserted that parking charges were always additional and kept separate from apartment rents; that she had no knowledge of any agreement between the tenant and the prior resident manager; and that the tenant had paid for parking for three years, and now wanted out of the contract. After discussion and consideration of the testimony and documentary evidence, the Board passed the following motion:

MSC: To deny the tenant's petition. (Murphy/Gruber: Becker, Marshall dissenting)

#### VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. The office workload statistics for the month of July, 2000.
- B. A new staff roster.
- C. An order of the California Supreme Court depublishing the case of Cabinda v. Santa Monica Rent Control Board.

#### VIII. Director's Report

Executive Director Grubb informed the Board that he will be on vacation from September 6<sup>th</sup> through 15<sup>th</sup>.

#### IV. Remarks from the Public (cont.)

- I. Lynn Elman told the Board that the acceptance or denial of an appeal shouldn't be based on whether or not the Commissioners believe the Administrative Law Judge to be correct, but on the evidence submitted.
- J. Tanya Ridgley spoke again on behalf of Lynn Elman, stating that the Board's decision seriously affects peoples' lives; that the tenants are "using the system"; and that landlords should be able to choose who lives in their building.

#### IX. Calendar Items



September 12, 2000 - NO MEETING

September 19, 2000  
9 appeal considerations

X. Adjournment

President Wasserman adjourned the meeting at 10:30 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
September 19, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

DOCUMENTS DEPT.

SEP 15 2000

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9/13/00

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.

- V. Consideration of Appeals

A. 2755 Bryant St. AL2K0135

The landlord appeals the decision granting a rent reduction due to the landlord's withholding of consent for a replacement roommate.

B. 1670 Clay St. #5 AL2K0140

The landlord appeals the decision granting rent reductions due to conversion from landlord-paid steam heat to tenant-paid electric heat.

C. 1670 Clay St. #7 & 8 AL2K0139

The landlord appeals the decision granting decreased services claims due to inadequate heat and conversion from steam to electric heat.

D. 825 Bush St. #406 & 404 AT2K0137 & -38

Two tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

E. 26 Belvedere St. AT2K0141; AL2K0143

The landlord and tenant appeal the decision granting rent increases based on increased operating expenses and determining rent overpayments.

F. 653 - 667 Bay St. AL2K0145;  
AT2K0146 thru -48



The landlord appeals the decision denying his Petition for Extension of Time to do Capital Improvement Work.

G. 3144-46 – 22<sup>nd</sup> St.

AL2K0144

The landlords appeal the decision only partially granting certification of capital improvement costs.

H. 1501 – 46<sup>th</sup> Ave.

AT2K0149

The tenants appeal the decision denying their petition claiming decreased housing services.

I. 2526 Van Ness Ave.

AT2K0150

The tenant appeals the remand decision re-determining rent overpayments.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- X. New Business
- XI. Calendar Items
- XII. Adjournment



## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

19/00  
SHARON K. WASSERMAN  
PRESIDENT

Tuesday, September 19, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

SEP 29 2000

LARRY BEACH BECKER  
SHIRLEY A. BIERLY

President Wasserman called the meeting to order at 6:10 p.m.

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PUBLIC LIBRARY

DAVID GUSTAV GRUBER

II. Roll Call

FREDERICK HOBSON

ANTHONY JUSTMAN  
MERRIE T. LIGHTNER

Commissioners Present: Becker; Gruber; Marshall; Wasserman.  
Commissioners not Present: Hobson; Justman; Lightner; Mosser.  
Staff Present: Grubb; Wolf.

NEVEO MOSSE  
BARTHOLOMEW MURPHY

Commissioner Murphy appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 5, 2000.  
(Becker/Marshall: 4-0)

IV. Remarks from the Public

- A. Mary Ann Greb, one of the hardship appellants at 825 Bush St. (AT2K0138), informed the Board that she cannot afford to pay any rent increase and that going to school isn't elective for her, it's a necessity.
- B. Christian Lackner, the tenant appellant in the case at 2526 Van Ness Ave. (AT2K0150), told the Commissioners that he submitted his rebuttal to the Administrative Law Judge's Memorandum as early as possible. Mr. Lackner stated that the base rent amount in the Decision is incorrect because it includes a charge for a storage space, which is illegal and unavailable.
- C. Karen Uchiyama, the attorney for the landlord appellant at 1670 Clay St. (AL2K0140 & AL2K0139), explained that she filed one of the appeals one day late due to what should be considered excusable neglect. She expressed her belief that the Decision in these cases is in violation of the Golden Gateway Decision, and that the conversion from steam to electric heat constituted an improvement to the property.
- D. The tenant appellant in the case at 1501 - 46<sup>th</sup> Ave. (AT2K0149) said that, even if the landlord plants a new shrub outside the property, it will be small and of no protective value.

V. Consideration of Appeals





A. 1670 Clay St. #5

AL2K0140

The tenant's petition alleging a substantial decrease in housing services due to the conversion from landlord-provided steam heat to electric heat paid for by the tenant was granted, and the landlords were found liable to the tenant in the amount of \$2,935.61, or \$137.00 per month. On appeal, the landlords maintain that: the landlords are being penalized for having improved services to the building; the Administrative Law Judge erred in granting rent reductions during a period of time when there was adequate heat in the building; the result is prohibited by the Golden Gateway decision; capital improvement passthroughs petitioned for by the landlords are irrelevant and should not have been considered; the amount granted constitutes a windfall, results in an absurdly low rent and does not promote the policies and goals of the Rent Ordinance; and the Decision denies the landlords a fair return, is unconstitutional and constitutes a taking of the landlords' property without just compensation.

Discussion of this appeal was continued to the next meeting in order for staff to report back on whether the formula used to calculate rent reductions due to a conversion from steam to electric heat takes into account temperature fluctuations, since a tenant would not always have to have the heat on in order to maintain a 68° temperature in the unit.

B. 1670 Clay St. #7 & 8

AL2K0139

The landlord's appeal was filed one day late because the landlord's attorney mistakenly assumed that the Decision in this case was mailed on the same day as a Decision regarding another unit in the building, because both Decisions were given to her on the same day by her client.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Becker: 5-0)

The tenant in unit #7 filed a petition alleging unlawful increases in rent; decreased housing services due to the conversion from steam to electric heat, which the tenant now has to pay for; and an allegation that the heat was inadequate when the electric heater was first installed. The petition was granted as to the conversion from steam to electric heat and it was found that the heat was inadequate for 7.3 months. The landlords were therefore found liable to the tenant in the amount of \$1,963.95. Additionally, rent overpayments in the amount of \$212.54 were determined to be owing from the landlords to the tenant. The tenants in unit #8 petitioned for a rent reduction due to the conversion and transfer of payment issue, and allege that the heat is dangerous and insufficient to heat the entire unit. These tenants also claim that the landlords have failed to repair peeling paint in the unit and otherwise failed to perform necessary repairs. The landlords were found liable to the tenants in the amount of \$762.62 pursuant to the decreased services claims concerning the heat; the failure to repair claim was determined to have been untimely filed. The landlords make the same arguments in appealing this case as cited above concerning unit #5 at the same property in appeal number AL2K0140, additionally asserting that the lease for unit #8 makes payment of utility bills the tenants' responsibility.

Consideration of this appeal was continued to the meeting on October 3<sup>rd</sup> for the same reason specified in the discussion of the case at 1670 Clay St. #5 (AL2K0140), above.



C. 825 Bush St. #406 & 404

AT2K0137 & -38

The landlord's petition for certification of capital improvement costs for 33 of 43 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #406 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Marshall/Becker: 5-0)

MSC: To accept the appeal of the tenant in unit #404 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Marshall/Becker: 5-0)

D. 26 Belvedere St.

AT2K0141; AL2K0143

The landlords' petition for rent increases to two units based on increased operating expenses was granted, resulting in 7% base rent increases to the tenants in those units. Additionally, the landlord was found liable to the tenant in one unit for rent overpayments in the amount of \$3,590.12. On appeal, the tenant asserts that: there is also a commercial unit in the building which should share in the apportionment of operating expenses; there is a mistake in the Decision as to the amount of his base rent; and the landlord is currently offering the tenant another Settlement Agreement and Release of claims pursuant to the Decision. The landlord also appeals, claiming that: the Administrative Law Judge failed to address a rent correction given in January, 1999, which was done immediately upon notice that the prior owner of the building may have imposed improper rent increases; the landlords and tenant entered into a Settlement Agreement in 1998 based on the amount the rent would have been had allowable annual increases been imposed through the years; and the current amount of rent that the tenant is paying is correct.

MSC: To accept the tenant's appeal and remand the case to the Administrative Law Judge for a hearing in order to allocate an equitable portion of the increased operating expenses to the commercial unit in the building and to correct the tenant's base rent amount, if necessary. (Becker/Marshall: 5-0)

MSC: To deny the landlord's appeal. (Becker/Marshall: 4-1; Murphy dissenting)

E. 1501 – 46<sup>th</sup> Ave.

AT2K0149

The tenants' petition alleging decreased housing services was denied except that the landlord was found liable to the tenants in the amount of \$15.00 per month due to ceiling leaks and \$10.00 per month due to a temporary loss of access to the building's garbage cans. On appeal, the tenants claim that: the landlord should be required to fortify the walls in the unit, because of an accident where an automobile crashed into the unit; an outside shrub was removed as a retaliatory measure; the placement of a window higher up on the wall affords less protection and loss of views; the tenants have been subjected to noise and harassment by the landlord and other tenants in the building; and the tenants' access to the laundry room should be restored.



MSC: To deny the appeal. (Murphy/Gruber: 5-0)

F. 2526 Van Ness Ave.

AT2K0150

The tenant filed a petition alleging an unlawful rent increase because the tenant claimed that the landlord had failed to refund amounts found owing to him in a prior Decision; the tenant contended that he had not been properly served with the notice of rent increase; the tenant maintained that the notice was technically defective in that it did not itemize banked increases by year; and the tenant contended that the landlord was not entitled to restore a rent reduction for loss of storage space because improvements to the space had not been effectuated. On appeal, the tenant asserted that the amount of overpayments determined to be owing from the landlord were still incorrect; that he was not served with the notice of rent increase until several months later than the date determined in the Decision; and the full use of the storage space had not been restored. The tenant's appeal was denied except that the case was remanded to the Administrative Law Judge only to correct the amounts owing from the landlord to the tenant. The tenant appeals the remand decision, claiming that since his base rent improperly includes the \$50 charge for restoration of the storage space, this issue is subject to further appeal.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 2755 Bryant St.

AL2K0135

The tenant's petition alleging substantial decreases in housing services was granted only as to the landlords' refusal to grant consent to a replacement roommate and the landlords were found liable to the tenant in the amount of \$1,952.32, or 50% of the tenant's base rent. On appeal, the landlords maintain that withholding of consent was reasonable because the applicant, a foreign student, had no rental or credit history and only a limited work history, so that no background information could be obtained.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Murphy dissenting)

H. 653-667 Bay St.

AL2K0145; AT2K0146 thru -48

The landlord's petition for an extension of time to do capital improvement work was denied because the landlord waited until March 1, 2000 to file the petition when he knew that the work would take longer than the original estimate as of November, 1999. On appeal, the landlord claims that he advised the Board, in writing, of the need for an extension to file the petition over three months before filing; and that the landlord was involved in a court proceeding concerning the property which was not concluded until March 23, 2000. Two tenants also appealed because they were not included in the landlord's petition and therefore did not receive notice of the proceedings in this matter.

MSC: To accept the landlord's appeal and remand the case to the Administrative Law Judge for a hearing to grant the petition after determining a reasonable period of time in which to complete the work; the landlord is advised that no further untimely filings will be tolerated. (Wasserman/Murphy: 3-2; Becker, Marshall dissenting)



MSC: Regarding the tenants' appeals, to advise the landlord that all tenants who resided in the building at the time construction commenced should be included in all future proceedings. (Marshall/Gruber: 5-0)

I. 3144-46 – 22<sup>nd</sup> St.

AL2K0144

The landlords' petition for certification of capital improvement costs to 3 of 4 units was granted only in part. The landlords appeal, asserting that: the Administrative Law Judge erred in finding that interior painting of units constituted repair work rather than capital improvement, since painting the inside of a structure helps to prolong its life just as painting the exterior does; work done to the vestibule and replacement windows constitute structural improvements which benefit the entire building; and the allocation method used by the Administrative Law Judge is unfair, as the units are of disparate size.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 5-0)

MSC: To deny the appeal. (Becker/Marshall: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from Lynn Elman, the landlord appellant in the case at 436 B Haight St. (AL2K0113), which was considered at the Board meeting on September 5<sup>th</sup>. Ms. Elman maintains that the Board denied her appeal based on a belief that the Administrative Law Judge thoroughly reviewed the facts of the case when she does not believe that this occurred.

B. A copy of the "Five City Rent Stabilization and Housing Chronicles", put out by one of the Commissioners on West Hollywood's Board.

C. A letter from landlord John Artal, complaining about what he felt were inappropriate comments in a Decision he recently received.

#### IV. Remarks from the Public (cont.)

E. The tenant appellant involved in the case at 1501 – 46<sup>th</sup> Ave. (AT2K0149) asked whether the Board had received an additional submission from he and his roommate.

F. Hardship appellant Mary Ann Greb of 825 Bush St. (AT2K0138) told the Board that she is requesting more than a 6-month deferral of the capital improvement passthrough, and is asking that she not be required to pay the increase until she obtains full-time employment.

#### VII. Calendar Items

September 26, 2000 - NO MEETING





October 3, 2000

11 appeal considerations

October 10, 2000 – NO MEETING

October 17, 2000

4 appeal considerations

October 19, 2000

Special Meeting: Fair Return

VIII. Adjournment

President Wasserman adjourned the meeting at 8:16 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
October 3, 2000  
25 Van Ness Avenue, Suite 320

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT  
8/00

AGENDA

DOCUMENTS DEPT.

2 (from 9/28/00)

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

SEP 29 2000

SAN FRANCISCO  
PUBLIC LIBRARY

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.

- V. Consideration of Appeals

A. 1670 Clay St. #5 AL2K0140  
(cont. from 9/19/00)

The landlord appeals the decision granting rent reductions due to  
conversion from landlord-paid steam heat to tenant-paid electric heat.

B. 1670 Clay St. #7 & 8 AL2K0139  
(cont. from 9/19/00)

The landlord appeals the decision granting decreased services claims  
due to inadequate heat and conversion from steam to electric heat.

C. 736 Leavenworth St. AL2K0151

The landlord appeals the decision only partially certifying capital  
improvement costs.

D. 1670 Clay St. #6 AT2K0153

One tenant appeals a decision granting certification of capital  
improvement costs.

E. 747 Geary St. #102 AT2K0152

One tenant appeals the decision certifying capital improvement costs on  
the grounds of financial hardship.

D. 445 Webster #1 AT2K0154



One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

E. 22 Heather St. AT2K0155

The tenant appeals the decision finding that a rent increase is justified pursuant to Costa-Hawkins.

F. 4323 – 20<sup>th</sup> St. #5 AT2K0156

One tenant appeals the decision certifying capital improvement costs based on financial hardship.

G. 740 Monterey Blvd., Apt. 104 & 208 AT2K0158

Two tenants appeal the decision certifying capital improvement costs.

H. 4001 – 4011 – 24<sup>th</sup> St. AL2K0157

The landlord appeals the portion of the decision denying a petition for rent increases based on increased operating expenses because the Administrative Law Judge found that the calculation periods used created "exaggerated results".

I. 1050 Stanyan St. #2 AL2K0159

The landlord appeals the decision certifying capital improvement costs because of a clerical error as to the tenant in one unit.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment



## ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board

AMENDED

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT  
POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
October 3, 2000  
25 Van Ness Avenue, Suite 320

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

OCT - 2 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order  
LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.

V. Consideration of Appeals

A. 1670 Clay St. #5 AL2K0140  
(cont. from 9/19/00)

The landlord appeals the decision granting rent reductions due to  
conversion from landlord-paid steam heat to tenant-paid electric heat.

B. 1670 Clay St. #7 & 8 AL2K0139  
(cont. from 9/19/00)

The landlord appeals the decision granting decreased services claims  
due to inadequate heat and conversion from steam to electric heat.

C. 736 Leavenworth St. AL2K0151

The landlord appeals the decision only partially certifying capital  
improvement costs.

D. 1670 Clay St. #6 AT2K0153

One tenant appeals a decision granting certification of capital  
improvement costs.

E. 747 Geary St. #102 AT2K0152

One tenant appeals the decision certifying capital improvement costs on  
the grounds of financial hardship.

F. 445 Webster #1 AT2K0154



One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

G. 22 Heather St.

AT2K0155

The tenant appeals the decision finding that a rent increase is justified pursuant to Costa-Hawkins.

H. 4323 - 20<sup>th</sup> St. #5

AT2K0156

One tenant appeals the decision certifying capital improvement costs based on financial hardship.

I. 740 Monterey Blvd., Apt. 104 & 208

AT2K0158

Two tenants appeal the decision certifying capital improvement costs.

J. 4001 - 4011 - 24<sup>th</sup> St.

AL2K0157

The landlord appeals the portion of the decision denying a petition for rent increases based on increased operating expenses because the Administrative Law Judge found that the calculation periods used created "exaggerated results".

K. 1050 Stanyan St. #2

AL2K0159

The landlord appeals the decision certifying capital improvement costs because of a clerical error as to the tenant in one unit.

VI. Communications

VII. Director's Report

VIII. Old Business

IX. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

**SB 1745: 60 Day Notice of Rent Increase**

XI. Calendar Items

XII. Adjournment





# MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, October 3, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 320

DOCUMENTS DEPT

OCT 11 2000

SAN FRANCISCO  
PUBLIC LIBRARY

## I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

HIRLEY A. BIERLY

D GUSTAV GRUBER

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

## II. Roll Call

Commissioners Present:

Becker; Gruber; Justman; Marshall; Mosser;  
Murphy; Wasserman.

Commissioners not Present:

Hobson; Lightner.

Staff Present:

Grubb.

## III. Approval of the Minutes

MSC: To approve the Minutes of September 19, 2000.  
( Becker/Gruber: 5-0)

## IV. Remarks from the Public

Andrew Zacks, who represents the landlord at 22 Heather St. (AT2K0155), took exception to the Administrative Law Judge's memo dated September 27<sup>th</sup>. He requested that if the Board does not deny the appeal, that they continue the matter for two weeks so that he may formally respond.

## V. Consideration of Appeals

A. 1670 Clay St. #5

AL2K0140

The tenant's petition alleging a substantial decrease in housing services due to the conversion from landlord-provided steam heat to electric heat paid for by the tenant was granted, and the landlords were found liable to the tenant in the amount of \$2,935.61, or \$137.00 per month. On appeal, the landlords maintain that: the landlords are being penalized for having improved services to the building; the Administrative Law Judge erred in granting rent reductions during a period of time when there was adequate heat in the building; the result is prohibited by the Golden Gateway decision; capital improvement passthroughs petitioned for by the landlords are irrelevant and should not have been considered; the amount granted constitutes a windfall, results in an absurdly low rent and does not promote the policies and goals of the Rent Ordinance; and the Decision denies the landlords a fair return, is unconstitutional and constitutes a taking of the landlords' property without just compensation.



MSC: To accept the appeal and remand the case for a hearing to determine the actual number of hours of heat used by the tenant. The calculation should also take into account seasonal variations. (Marshall/Justman: 5-0)

B. 1670 Clay St. #7 & 8

AL2K0139

The tenant in unit #7 filed a petition alleging unlawful increases in rent; decreased housing services due to the conversion from steam to electric heat, which the tenant now has to pay for; and an allegation that the heat was inadequate when the electric heater was first installed. The petition was granted as to the conversion from steam to electric heat and it was found that the heat was inadequate for 7.3 months. The landlords were therefore held liable to the tenant in the amount of \$1,963.95. Additionally, rent overpayments in the amount of \$212.54 were determined to be owing from the landlords to the tenant. The tenants in unit #8 petitioned for a rent reduction due to the conversion and transfer of payment issue, and allege that the heat is dangerous and insufficient to heat the entire unit. These tenants also claim that the landlords have failed to repair peeling paint in the unit and otherwise failed to perform necessary repairs. The landlords were found liable to the tenants in the amount of \$762.62 pursuant to the decreased services claims concerning the heat; the failure to repair claim was determined to have been untimely filed. The landlords make the same arguments in appealing this case as cited above concerning unit #5 at the same property in appeal number AL2K0140, additionally asserting that the lease for unit #8 makes payment of utility bills the tenants' responsibility.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

C. 736 Leavenworth St.

AL2K0151

The landlords' petition for certification of the costs of a seismic retrofit project was approved, in part. The landlord appeals the denial of certification of the costs of roof repair and pipe replacements, asserting that this work was incidental to the seismic retrofit project, and therefore should be considered capital improvements.

MSC: To accept the landlord's appeal and remand the case to the Administrative Law Judge to certify the costs of the roof repair and pipe replacements as incidental to the capital improvement work. (Murphy/Justman: 5-0)

D. 1670 Clay St. #6

AT2K0153

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted, in part. The tenant in one unit appeals the decision on the grounds that: she did not have a full opportunity to present relevant evidence and argument at the hearing; the tenants should not have to pay for the costs of the electrical heating system until the landlords prove that a cited code violation has been abated; the cost of the exterior painting was greatly increased because of the deferred maintenance of the current owners; the cost of painting the lobby was inflated; the invoices submitted were of questionable validity; an argument regarding an illegal unit in the building was attributed to the tenants, when it was actually made by the landlords; and the Administrative Law Judge exhibited bias against the tenants and in favor of the landlords.





MSC: To deny the appeal. (Gruber/Marshall: 5-0)

E. 747 Geary St. #102

AT2K0152

The landlord's petition for certification of the costs of a seismic upgrade of the building, a new roof and new retaining wall was granted, resulting in a passthrough in the amount of \$122.35 to 16 of 22 units in the building. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship and to exclude consideration of the fact that he is a student. (Becker/ Marshall: 5-0)

F. 445 Webster #1

AT2K0154

The landlords' petition for rent increases based on increased operating expenses for 11 of 15 units was granted, resulting in 7% base rent increases for all but 2 units. One tenant appeals the decision on the grounds of financial hardship. The tenant's appeal was filed two weeks late because the tenant is suffering from AIDS.

The Commissioners continued consideration of this appeal so that staff can write the appellant and request clarification as to the actual number of tenants residing in the unit and have any additional adult occupant submit a Hardship Application. Staff was also instructed to send a copy of the landlord's opposition to the tenant appeal to the tenant.

G. 22 Heather St.

AT2K0155

The tenant's petition alleging an unlawful rent increase to \$2,000.00 per month pursuant to the provisions of Costa-Hawkins was denied. After the death of his mother, the original tenant of the unit, the tenant petitioner claimed that he had never vacated the unit, and was himself a tenant. The Administrative Law Judge found that the tenant had not resided at the unit between 1995 and the time of his mother's death, and that he had therefore relinquished his tenancy. On appeal, the tenant asserts: that he never vacated or relinquished his tenancy at the subject unit; that although he established additional tenancies, he always considered the unit to be his principal place of residence; that the landlord accepted rent checks bearing his name; that the dates he gave at the hearing regarding the dates he occupied the unit are incorrect; and Costa-Hawkins is inapplicable to the facts of this case.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

H. 4323- 20<sup>th</sup> St. #5

AT2K0156

The landlord's petition for certification of capital improvement costs to 9 of 12 units was granted. One tenant appeals the decision on the grounds of financial hardship

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 3-2, Gruber, Murphy dissenting)



I. 740 Monterey Blvd., Apt. 104 & 208

AT2K0158 &  
AT2K0161

The landlord's petition for certification of capital improvement costs to 15 of 24 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #104 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

MSC: To accept the appeal of the tenant in unit #208 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 5-0)

J. 4001-4011 – 24<sup>th</sup> St.

AL2K0157

The landlord's petition for certification of capital improvement costs was granted. The portion of the petition asking for rent increases based on increased operating expenses was denied because the Administrative Law Judge found that the calculation periods used by the landlord created exaggerated results because the landlord had already received 7% base rent increases due to acquisition of the building. On appeal, the landlord claims that the Administrative Law Judge denied him due process by not raising her concerns during the hearing; that the increase granted in the first petition was based on increased property taxes resulting from the death of the prior owner, and that the current petition seeks an increase based on his purchase of the building, which constitutes two separate transactions; Rules Section 6.10(f) {the "anti-spec" clause} is inapplicable to the facts of this case because there were not two sales of the property but, rather, one sale and one transfer; and there are no "exaggerated results" because the increases in debt service and property taxes are permanent, and not one-time occurrences.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

K. 1050 Stanyan St. #2

AL2K0159

The landlord's petition for certification of capital improvement costs to 8 of 12 units was granted. The Decision states that the landlord had chosen not to pass the costs of the new roof through to the tenant in unit #2 of the building. However, on appeal, the landlord's representative informs the Board that this omission was a clerical error and asks to be allowed to amend the petition.

MSC: To accept the appeal and remand the case to the Administrative Law Judge in order to allow the landlord to amend the petition in order to pass through the costs of the new roof to the tenant in unit #2. (Gruber/Murphy: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of a letter from the Director to Mr. John Artal in response to an earlier correspondence; a copy Senate Bill 1745; August Workload Statistics; and a revised staff roster.

#### VII. New Business



SB 1745: 60 Day Notice of Rent Increase

The Director informed the Commissioners about this legislation, which will take effect on January 1, 2001. The legislation will require a 60-day notice for any rent increase that results in a tenant's rent being increased in excess of 10% in any 12-month period. The ramifications of this include: rent increases that involve banked amounts, operating and maintenance expense increases and capital improvements, any of which may warrant a 60 notice if the increase alone or cumulatively results in the tenant's rent being increased by more than 10% within a year. Mr. Grubb explained how the department will handle rent increase notices that do not conform to the new notice requirements; and outlined outreach efforts that should be undertaken to alert the public to this change. This item will be on the October 19, 2000 agenda for further discussion.

VIII. Calendar Items

October 10, 2000 - NO MEETING

October 17, 2000

11 appeal considerations

October 19, 2000

Special Meeting: Fair Return

IX. Adjournment

President Wasserman adjourned the meeting at 7:55 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
October 17, 2000  
25 Van Ness Avenue, Suite 320

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

DOCUMENTS DEPT.

OCT 11 2000

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PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
FRID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 2386 Fulton AL2K0160

The landlord appeals the remand decision granting a claim of decreased housing services due to the landlord's refusal to consent to a replacement roommate.

B. 1278 - 26<sup>th</sup> Ave. AT2K0162

The tenant appeals the remand decision changing the allocation of capital improvement costs.

C. 635 Chesnut St. AT2K0163

The tenant appeals the dismissal of his petition alleging an unlawful rent increase due to his failure to appear at the hearing.

D. 514A Utah St. AL2K0164

The landlord appeals the decision determining the rent for a non-comparable replacement unit in the building subsequent to an eviction for owner occupancy.

E. 740 Monterey #111 AT2K0165

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.





F. 711 Leavenworth #20

AT2K0166

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

G. 1487 Guerrero St.

AL2K0169

The landlord appeals the remand decision granting a tenant appeal based on financial hardship.

H. 486 Funston Ave. #302

AL2K0168

The landlord appeals the remand decision denying a rent increase based on comparable rents.

I. 2451 – 26<sup>th</sup> St.

AL2K0167

The landlord appeals the decision granting a claim of unlawful rent increases.

J. 1684 – 88 Grove St.

AL2K0170

The landlord appeals the dismissal of his petition for certification of capital improvements based on his failure to appear at the hearing.

K. 650 Tenth Ave.

AT2K0171

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

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IX. New Business

X. Calendar Items

XI. Adjournment



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**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, MAYOR**

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, October 17, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 320

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

NOV - 8 2000

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER

President Wasserman called the meeting to order at 6:10 p.m.

SAN FRANCISCO  
PUBLIC LIBRARY

FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSE  
BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Gruber; Lightner; Marshall; Mosser;  
Wasserman.  
Commissioners not Present: Becker; Hobson; Murphy.  
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:35 p.m.  
President Wasserman announced that Commissioner Hobson would be taking  
a leave of absence until after the election.

III. Approval of the Minutes

MSC: To approve the Minutes of October 3, 2000.  
(Gruber/Marshall: 4-0)

IV. Consideration of Appeals

A. 2386 Fulton St.

AL2K0160

The landlords' appeal was filed two days late because the landlords relied on the  
date of receipt of the Decision rather than the date of mailing.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Lightner: 4-0)

The tenants' petition alleging substantial decreases in housing services was granted  
and the landlords were found liable to the tenants in the amount of \$572.00 for  
inadequate bathroom facilities; \$1,155.00 for loss of the right to sublet; and  
\$1,600.00 due to rent overpayments. The landlords' appeal was accepted and the  
case was remanded to find that enforcing a consent clause in a rental agreement  
does not constitute a decrease in housing services; to grant a rent reduction only for  
the period of time that consent to subletting was unreasonably withheld by the  
landlord; and to determine whether the rent increase was the result of all of the original  
occupants having vacated the unit. In the Decision on Remand, the landlords were  
held liable in the amount of \$891.00 due to unreasonable withholding of consent to  
subletting; and their contention that the rent increase was warranted based on the  
banking provisions of the Ordinance was found not to have been proved. On



further appeal, the landlords argue that: the tenants exaggerated the extent of the bathroom problem; as a recent owner, the landlord is not able to obtain documentation regarding the commencement date of the tenancy, which would be readily available to the tenants; the Administrative Law Judge erred in finding that the tenants had not requested a replacement roommate more than once in the prior twelve-month period; the tenants should not have been granted a rent reduction for the period of time it took for them to find a replacement roommate and for that roommate to be approved by the landlord; and the Administrative Law Judge has exhibited bias against the landlords and for the tenants.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to re-examine the commencement date for the rent reduction due to the landlord's unreasonable withholding of consent to subletting; and to determine whether there was a new or continuing tenancy for purposes of evaluating the claim of unlawful rent increase. (Marshall/Lightner: 4-0)

B. 1278 – 26<sup>th</sup> Ave.

AT2K0162

The landlord's petition for certification of capital improvements and an 11.2% increase based on the Past Rent History of the unit was granted. The tenant's appeal was granted and the case was remanded to disallow the cost of replacing a skylight, but the Administrative Law Judge was instructed to allow an amount commensurate with the cost of re-roofing that area. The tenant appeals the remand decision, claiming that making an arbitrary separation of the costs of the skylights and for replacing that area of the roof will have the effect of double counting the cost of the skylight roof section and a portion of the cost of the skylight reconstruction.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

C. 635 Chesnut St.

AT2K0163

The tenant's appeal was filed 9 days late because he relied on incorrect information from a Rent Board employee who no longer works for the agency.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Gruber: 4-0)

The tenant's petition alleging an unlawful increase in rent was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Marshall/Justman: 4-0)

D. 514A Utah St.

AL2K0164

The tenant filed a petition asking for a rent determination for a non-comparable unit in the building that he was now living in, having been evicted from his prior unit for occupancy by the owner. The Administrative Law Judge found the appropriate rent for the replacement unit to be \$976.04, rather than the \$1,350.00 set by the landlord. On appeal, the landlord argues: that the Board's authority to set a rent for a





vacant unit is preempted by Costa-Hawkins; that procedures for determination of initial rent for non-comparable replacement units would have to be enacted by the Board of Supervisors; that square footage comparison is an inaccurate measure of the value of a rental unit and does not reflect the pricing of rental units in San Francisco.

MSF: To deny the appeal. (Marshall/Justman: 2-2; Gruber, Lightner dissenting)

Consideration of this appeal was continued to the meeting on November 14<sup>th</sup>, when there will be another Tenant Commissioner present.

E. 740 Monterey #111

AT2K0165

The tenant's appeal was filed 4 days late because the tenant was experiencing medical difficulties.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Gruber: 4-0)

The landlord's petition for certification of capital improvement costs to 15 of 24 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Lightner: 4-0)

F. 711 Leavenworth #20

AT2K0166

The landlords' petition for certification of capital improvement costs to 18 of 31 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Lightner: 4-0)

G. 1487 Guerrero St.

AL2K0169

The landlord's petition for certification of capital improvement costs to 5 of 6 units was granted. One tenant's appeal on the grounds of financial hardship was accepted and remanded for hearing. The Administrative Law Judge found sufficient financial hardship to warrant deferral of the \$61.00 passthrough unless and until the tenant's financial circumstances should change. The landlord appeals, arguing that he should not be required to subsidize the tenant's rent when it is already 500% below market.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to defer implementation of the passthrough for 90 days from the date of issuance of the Decision on Remand, in order for the tenant to find a roommate. This is conditioned on the landlord's acceptance of rent directly from the roommate, which will not make this person a tenant under the facts of this case. (Lightner/Gruber: 4-0)

H. 486 Funston Ave. #302

AL2K0168



The landlord's petition for a rent increase based on comparable rents was denied. The landlord's appeal was accepted and the case was remanded to determine whether the threshold requirement for a rent increase based on comparables had been met. The Administrative Law Judge found that the landlord had failed to prove that the rent was set or kept low or was increased only negligible amounts, nor had they demonstrated the lack of a fair return on the building, as opposed to this particular unit. The landlord appeals the remand decision, asserting that: the amount of rent the Administrative Law Judge found was charged for the unit when it came under jurisdiction may not be correct; the appropriate initial rent date for the unit is 1994, when the tenant's mother died, instead of 1979, when the unit first came under rent control; allowing a subtenant to succeed to the benefits of a controlled rent denies the landlord the benefits of vacancy decontrol; the landlord is being denied procedural and substantive due process by being deprived of a fair return on this unit; and the Board's policies regarding fair return are not elucidated in the Ordinance or Regulations.

MSC: To recuse Commissioner Wasserman from consideration of this appeal. (Wasserman/Gruber: 4-0)

MSF: To deny the appeal. (Justman/Marshall: 2-2; Gruber, Lightner dissenting)

Consideration of this appeal was continued to the meeting on November 14<sup>th</sup>, when another Tenant Commissioner will be present.

I. 2451 – 26<sup>th</sup> St.

AL2K0167

The tenants' petition alleging unlawful rent increases was granted and the landlords were found liable to the tenants in the amount of \$10,481.28. On appeal, the landlords argue that: the tenants have the burden of proving an unlawful increase in rent, and the tenants herein did not have a copy of their original rental agreement or other documentary evidence, nor were they sure as to the amount of the initial base rent; the tenants admitted that labor was sometimes exchanged for rent offsets; rent receipts that were submitted were illegible, and the tenants admitted they did not always receive receipts for payment of rent; the tenants' credibility was impeached when they denied having signed an estoppel certificate, which they later admitted they had done; and the tenants should be estopped from filing this claim.

MSC: To accept the appeal and, in the interests of fairness and justice, of the total amount owing of \$10,481.28, to remand the case to the Administrative Law Judge on the record to hold the landlords liable for overcharges only for the period of time that they have owned the building. (Gruber/Lightner: 3-1; Marshall dissenting)

J. 1684-88 Grove St.

AL2K0170

The landlord's petition for certification of capital improvement costs was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the landlord claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Lightner/Gruber: 4-0)



K. 650 Tenth Ave.

AT2K0171

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant admits to having written down the wrong date for the hearing in his calendar.

MSC: To accept the appeal and remand the case for a new hearing; no further continuances or postponements will be granted to the tenant absent extraordinary circumstances. (Marshall/Gruber: 3-1; Lightner dissenting)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the new bond measure passthrough calculation worksheet for the 2000-2001 tax year.

VI. Calendar Items

October 19, 2000

Old Business:

- A. 60-Day Notices of Rent Increase (SB 1745)
- B. Fair Return

October 24<sup>th</sup>, 31<sup>st</sup> & November 7th, 2000 - NO MEETINGS

November 14, 2000

10 appeal considerations (1 cont. from 10/3/00; 2 cont. from 10/17/00)

Old Business: Fair Return

VII. Adjournment

President Wasserman adjourned the meeting at 7:50 p.m.





**NOTICE OF THE SPECIAL MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
October 19, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

52  
POLLY MARSHALL  
VICE-PRESIDENT

25 Van Ness Avenue, Suite 320

**AGENDA**

1/19/00  
Special

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- V. Old Business
  - A. Senate Bill 1745: 60 Day Notice
  - B. Fair Return

- VI. Communications
- VII. Director's Report
- IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- VIII. New Business
- IX. Calendar Items
- X. Adjournment

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**CORRECTED NOTICE OF THE SPECIAL MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

**Thursday, 6:00 p.m.,  
October 19, 2000**

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, Suite 320

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

19/00  
Corrected  
Special  
LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.**

- V. Old Business
  - A. Senate Bill 1745: 60 Day Notice
  - B. Fair Return
- VI. Communications
- VII. Director's Report
- IV. Remarks from the Public (cont.)

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- VIII. New Business
- IX. Calendar Items
- X. Adjournment

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations,  
members of the public shall be limited to comments of no more  
than 3 minutes' duration.**





19/00  
SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

MINUTES OF THE SPECIAL MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, October 19, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 320

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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Wasserman called the meeting to order at 6:13 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Lightner; Wasserman.  
Commissioners not Present: Hobson; Justman; Mosser.  
Staff Present: Gartzman; Lee; Wolf.

Commissioner Murphy appeared on the record at 6:15 p.m.; Commissioner Marshall arrived at 6:20 p.m. Commissioner Gruber went off the record at 7:35 p.m. Commissioner Justman participated in the meeting by telephone for approximately 10 minutes at the commencement of the discussion of Fair Return, under the Old Business portion of the Agenda.

III. Remarks from the Public

1. Nancy Tucker, of the Small Property Owners of San Francisco, said that small owners are scared because of the presence of several pro-tenant initiatives on the ballot. She stated that, according to SPUR, 25,000 units have been taken off the rental market; most of these are in small buildings.
2. Andy Braden, who represents landlords at Rent Board hearings, asked what "fair return" means and how one calculates it.
3. Landlord Robyn Dorius inquired about the 5 fair return cases that have been filed at the Rent Board.

IV. Old Business

A. SB 1745: 60 Day Notice of Rent Increase

Senior Administrative Law Judge Tim Lee went over the provisions of SB 1745, which will take effect on January 1, 2001. The new law allows landlords to serve rent increases notices by mail; however, 5 additional days must be added to the required notice period. Additionally, a 60 day notice will now be required for any increase which alone or cumulatively within a year results in a tenant's rent being increased by more than 10%. Currently, if a notice of rent increase of less than 30 days is challenged later by a tenant, the Administrative Law Judge will make the increase effective thirty days after receipt of the notice. This can have the effect of voiding an otherwise allowable annual increase given the next year, because it will



have taken effect less than one year after the prior increase. For example, if a tenant received a notice of rent increase on November 7, 1999 to take effect on December 1, 1999, the Administrative Law Judge would determine that the increase took effect December 7, 1999 and order any necessary refund of amounts overpaid. If an increase was given the following year, effective December 1, 2000, it would be null and void because 12 months would not have passed since the effective date of the prior increase. The Landlord Commissioners on the Board suggested that, to avoid any problems, the safest course of action would be for landlords to give 60 days notice of all rent increases after January 1, 2001.

#### B. Fair Return

At their meeting on August 22<sup>nd</sup>, the Commissioners had discussed the presence of Proposition H on the November ballot, which would prohibit certification of most capital improvement costs unless the landlord can prove that they are necessary in order to receive a constitutionally required fair return. It was suggested that the Board consider promulgating Rules and Regulations addressing this issue. At that time, President Wasserman asked that staff prepare a packet for the Commissioners, including a summary of important court cases in this area, copies of any such cases, and an outline of how other rent controlled jurisdictions handle this issue. Senior Administrative Law Judges Sandy Gartzman and Tim Lee prepared a Memorandum for the Board, along with relevant cases and articles. Their Memorandum discussed the historical use of the NOI (maintenance of net operating income) standard of fair return, the wide acceptance of that standard, and the fact that the NOI standard is mandated by Proposition H. They also discussed problems with using that standard in San Francisco, which has never had vacancy control nor registration of rents, especially in the area of obtaining income and expense records back to 1978.

By telephone, Commissioner Justman conveyed his feeling that, if Proposition H passes, the Board should have something ready for the public expressing the Board's interpretation. Commissioner Murphy responded that this is a complicated issue, and he feels a long way from understanding it; he would feel more comfortable having testimony from economic experts. Commissioner Lightner said that she thought the property owner community would rather have well thought-out regulations than something right away; Commissioner Gruber was concerned that, even if a landlord had the records, all buildings are run differently. Commissioner Marshall pointed out that, in the case of the Costa-Hawkins legislation, the law could be applied on a case-by-case basis. Proposition H is different in that it constitutes a whole new change in the rent law and, the Commissioners should not delay implementing regulations. President Wasserman stated that she is only interested in defining fair return for purposes of capital improvement petitions in the event Proposition H passes; there have not been enough fair return petitions filed exclusive of capital improvements to warrant enactment of Regulations.

Discussion then focused on problems associated with obtaining income and expense records over 20 years old, especially for landlords who didn't own the building at that time. Additionally, in buildings where there have been any vacancies since 1979, it may be difficult for landlords to justify an increase under Proposition H. Commissioner Lightner asked if it would be possible for the Board to go beyond the explicit requirements of the Proposition if the standard is impossible to meet on its face. For example, could the Board extrapolate base year income and expenses for those landlords who cannot provide the documentary evidence? There was a feeling among some Landlord Commissioners that it may not be the



Board's job to craft regulations to legitimize what they believe to be an unconstitutional provision. Some Tenant Commissioners expressed the view that, should Proposition H pass and become part of the Rent Ordinance, it is incumbent upon the Board to effectuate procedures that make it work for the public.

After discussion, it was the consensus of the Board that, even if Proposition H passes on November 7<sup>th</sup>, the Rent Board will continue to process capital improvement petitions as usual until the effective date of the legislation. Commissioner Murphy informed the Commissioners and staff that the landlord community will be filing a legal challenge right away, including seeking injunctive relief. President Wasserman felt that the Board should wait to see what happens before adopting regulations, unless it takes too long. Discussion of this issue will continue, if necessary, at the November 14<sup>th</sup> Board meeting.

III. Remarks from the Public (cont.)

3. Andy Braden said that he knows lots of owners who've owned their buildings since 1978, and some have retained their records. Since he would like to force the Board to take action, he's tempted to file a petition for fair return based on tax returns, in order to "make them deal with it."
4. Robyn Dorius informed the Board that she bought a building in 1993 through bankruptcy court, and that there were no records. She and her husband have spent in excess of \$250,000 on capital improvements; they do all the labor themselves; and have not made a profit in 7 years. She asked how the Board was going to help someone in her situation should Proposition H pass.

V. Calendar Items

October 24, 31 & November 7, 2000 - NO MEETINGS

November 14, 2000

10 appeal considerations (1 cont. from 10/3/00; 2 cont. from 10/17/00)  
Old Business: Fair Return

VI. Adjournment

President Wasserman adjourned the meeting at 7:45 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
November 14, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

Fax 11/7/00  
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4/00  
2  
LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- V. Consideration of Appeals

A. 445 Webster St. #1 AT2K0154  
(cont. from 10/3/00)

One tenant appeals the decision granting rent increases based on increased operating expenses, alleging financial hardship.

B. 514 A Utah St. AL2K0164  
(cont. from 10/17/00)

The landlord appeals the decision determining the rent for a non-comparable replacement unit in the building subsequent to an eviction for owner occupancy.

C. 486 Funston Ave. #302 AL2K0168  
(cont. from 10/17/00)

The landlord appeals the remand decision denying a rent increase based on comparable rents.

D. 460 Ramsell St. AL2K0172

The landlord appeals the decision denying a Petition for Extension of Time to Do Capital Improvement Work.

E. 750 Rutland, No. 1 AL2K0173

The landlord appeals the decision granting rent reductions due to decreased housing services.



F. 1647 McAllister St.

AL2K0174

The landlord appeals the dismissal of a petition for certification of capital improvement costs due to the landlord's failure to appear at the hearing.

G. 1733 Golden Gate Ave.

AL2K0177

The landlord appeals the decision granting a claim of unlawful rent increase because the landlord had not proved that the building constituted new construction.

H. 930 Sutter St. #207

AL2K0175

The landlord appeals the decision denying certification of the costs of a new deck due to lack of benefit to the tenant.

I. 42 Ashbury St.

AL2K0178

The landlord appeals the decision partially granting a rent increase based on increased operating expenses.

J. 1301 Leavenworth

AL2K0179 & AT2K0180

The landlord and tenant appeal the remand decision granting a Petition for Extension of Time to Do Capital Improvement Work.

VI. Communications

VII. Director's Report

VIII. Old Business

Fair Return

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment



## **ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

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Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.





MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,

Tuesday, November 14, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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NOV 22 2000

SAN FRANCISCO  
PUBLIC LIBRARY

4/00  
SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:01 p.m.

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER II. Roll Call

FREDERICK HOBSON

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioners Present: Becker; Hobson; Lightner; Marshall; Mosser;  
Murphy; Wasserman.

Commissioners not Present: Gruber.

Staff Present: Gartzman; Grubb; Lee; Wolf.

Commissioner Justman appeared on the record at 6:13 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 17, 2000.  
(Marshall/Lightner: 5-0)

MSC: To approve the Minutes of October 19, 2000.  
(Becker/Mosser: 5-0)

IV. Remarks from the Public

1. Rebecca Graf of the Housing Rights Committee informed the Board that she was one of the original proponents of Proposition H, and had been involved in drafting the Initiative. She told the Commissioners that it had been intended that a Decision be considered "final" once the appeal process had been completed or the 15-day period for filing a timely appeal had expired.

2. The landlady involved in the case at 1733 Golden Gate Ave. (AL2K0177) asked for an extension in order to obtain a Certificate of Occupancy for the structure.

3. Landlord Scott Hall inquired as to the definition of "seismic work" under Proposition H. Specifically, Mr. Hall intends to add a bedroom to several units in his building. Since it will be more expensive to do so in San Francisco than somewhere with less threat of earthquakes, could this be petitioned for as allowable seismic work pursuant to Proposition H?

4. Gerald Sverdlas asked what effect Proposition H would have on the appeal he was at the meeting about.

V. Consideration of Appeals





A. 445 Webster #1

AT2K0154  
(cont. from 10/3/00)

The landlords' petition for rent increases based on increased operating expenses for 11 of 15 units was granted, resulting in 7% base rent increases for all but 2 units. One tenant appeals the decision on the grounds of financial hardship. The tenant's appeal was filed two weeks late because the tenant is suffering from AIDS.

The Commissioners continued consideration of this appeal so that staff could write the appellant and request clarification as to the actual number of tenants residing in the unit and have any additional adult occupant submit a Hardship Application. Staff was also instructed to send a copy of the landlord's opposition to the tenant appeal to the tenant. Nothing further was received from the tenant.

MSC: To deny the appeal. (Becker/Mosser: 5-0)

B. 514A Utah St.

AL2K0164  
(cont. from 10/17/00)

The tenant filed a petition asking for a rent determination for a non-comparable unit in the building that he was now living in, having been evicted from his prior unit for occupancy by the owner. The Administrative Law Judge found the appropriate rent for the replacement unit to be \$976.04, rather than the \$1,350.00 set by the landlord. On appeal, the landlord argues: that the Board's authority to set a rent for a vacant unit is preempted by Costa-Hawkins; that procedures for determination of initial rent for non-comparable replacement units would have to be enacted by the Board of Supervisors; that square footage comparison is an inaccurate measure of the value of a rental unit and does not reflect the pricing of rental units in San Francisco. Consideration of this appeal was continued from the meeting on November 14<sup>th</sup>, because of the lack of two voting Tenant Commissioners at that meeting.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Lightner, Mosser dissenting)

C. 486 Funston Ave. #302

AL2K0168

The landlord's petition for a rent increase based on comparable rents was denied. The landlord's appeal was accepted and the case was remanded to determine whether the threshold requirement for a rent increase based on comparables had been met. The Administrative Law Judge found that the landlord had failed to prove that the rent was set or kept low or was increased only negligible amounts, nor had they demonstrated the lack of a fair return on the building, as opposed to this particular unit. The landlord appeals the remand decision, asserting that: the amount of rent the Administrative Law Judge found was charged for the unit when it came under jurisdiction may not be correct; the appropriate initial rent date for the unit is 1994, when the tenant's mother died, instead of 1979, when the unit first came under rent control; allowing a subtenant to succeed to the benefits of a controlled rent denies the landlord the benefits of vacancy decontrol; the landlord is being denied procedural and substantive due process by being deprived of a fair return on this unit; and the Board's policies regarding fair return are not elucidated in the Ordinance or Regulations. Consideration of this case was continued from the October 17<sup>th</sup> meeting because only one voting Tenant Commissioner was in attendance.



MSC: To recuse Commissioner Wasserman from consideration of this appeal. (Lightner/Marshall: 5-0)

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for a Technical Correction to the Decision to clarify that the Net Operating Income standard for determining fair return has been used by the Rent Board in the past, but there have been very few cases that have raised this issue. (Becker/Marshall: 5-0)

D. 460 Ramsell St.

AL2K0172

The landlord's petition for extension of time to do capital improvement work was denied because the Administrative Law Judge found that the landlords knew or should have known that the work would take longer than the date originally estimated, but failed to file the petition timely. Additionally, it was determined that stop work orders issued by the City were the result of the landlords' own actions. On appeal, the landlord in attendance at the hearing, who is not fluent in English, contends that she did not understand the questions posed to her at the hearing nor does she believe that she was understood by the Administrative Law Judge. The landlord maintains that the delays in the work were beyond her control, and that she notified the Rent Board as soon as it became apparent that the time for the project would exceed the amount of time granted pursuant to the first Petition of Extension of Time.

MSC: To accept the appeal and remand the case for a new hearing. The landlord is instructed to bring an interpreter and all relevant evidence to the remand hearing. (Lightner/Mosser: 5-0)

E. 750 Rutland, No. 1

AL2K0173

The tenant's petition alleging decreased housing services was granted and the landlords were found liable to the tenant in the amount of \$4,477.50 due to serious habitability defects on the premises. On appeal, one of the landlords claims that the landlord who received notice of the hearing, his father, does not speak or understand English. He avers that the testimony and evidence introduced by the tenant at the hearing is false and requests that he be granted an opportunity to tell "his side of the story."

MSC: To accept the appeal and remand the case for a new hearing. (Lightner/Mosser: 5-0)

F. 1647 McAllister St.

AL2K0174

The landlords' petition for certification of capital improvement costs was dismissed due to the landlords' failure to appear at the properly noticed hearing. On appeal, the landlords allege that they failed to receive notice of the hearing, and attach the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Mosser: 5-0)

G. 1733 Golden Gate Ave.

AL2K0177



The tenants' petition alleging unlawful rent increase was granted and the landlord was found liable to the tenants in the amount of \$3,120.00. The Administrative Law Judge had found that the building was not exempt from Rent Board jurisdiction because the Certificate of Occupancy for the structure was not first issued after the effective date of the Rent Ordinance; nor had the landlord met the criteria for exemption from the Ordinance due to substantial rehabilitation of the premises. On appeal, the landlord explains that the unit in which the tenants reside was newly constructed, and a two-story owners' unit was placed on top of the tenants' unit in 1978. However, the prior owner never had the construction permits finalized and no Certificate of Final Completion and Occupancy was ever issued for the new structure. The landlord asserts that the City considers the structure to be the equivalent of new construction and requests additional time in which to obtain and provide the new Certificate of Occupancy.

MSF: To deny the appeal. (Marshall/Becker: 2-3; Justman, Lightner, Mosser dissenting)

MSC: To accept the appeal and remand the case to the Administrative Law Judge to re-open the record for 120 days in order for the landlord to obtain the necessary evidence. Should additional evidence be timely received, a new Decision shall be issued on the record or, if necessary, a new hearing will be held. The rent increase shall remain stayed until such time as a new Decision is issued pursuant to this motion. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)

H. 930 Sutter St. #207

AL2K0175

The landlord's petition for certification of the costs of a new deck to the tenant in one unit was denied. The Administrative Law Judge found that the deck constituted an individual rather than a common area improvement since it benefits only 3 of 49 units. The instant tenant rarely uses the deck; objected to its installation; and the landlord failed to prove that the deck was necessary for health or safety reasons, nor because of excessive maintenance costs. On appeal, the landlord claims that the decision is in error in that the tenant does use the deck; and that the deck is justified for safety reasons, in that it provides a much better escape route in the event of an emergency.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Lightner, Mosser dissenting)

I. 42 Ashbury St.

AL2K0178

The landlord's petition for a rent increase based on increased operating expenses was granted, in part. However, a notice of rent increase was determined to be null and void because it was issued prior to the petition having been filed. On appeal, the landlord asserts that: the portion of the rent increase attributable to the 2.9% annual increase is de minimus and should not be rendered null and void because the landlord does not have to petition for approval of that amount; the supplemental property tax expense should be allocated to the year that it was paid, rather than the year it was incurred; and the additional \$2.00 amount on the notice of rent increase represented the passthrough of a bond-related property tax increase.



MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to disallow the operating expense portion of the rent increase but allow the annual rent increase to stand; and, to technically correct the decision to indicate that the increase given on April 1, 1999 could have been in excess of limitations for reasons other than allowable banking.  
(Lightner/Justman: 5-0)

J. 1301 Leavenworth

AL2K0179;  
AT2K0180

The landlord's petition for extension of time to do capital improvement work was denied because the landlord failed to file the petition timely although he knew prior to commencement of the work that it would take longer than 90 days. On appeal, the Rent Board Commissioners voted to waive the requirements of Rules Section 12.15(e)(1) under the facts of this case, where it was clearly established that the work would take longer than 3 months to complete, and the landlord was under court order to undertake the work. A remand decision issued which vacated the prior decision and granted the landlord's petition for extension of time. The landlord appeals the remand decision, claiming that the date granted by the Administrative Law Judge was arbitrary, and unforeseeable circumstances have prevented the landlord from completing the work by that date. One tenant also appeals the remand decision, maintaining: that the Board was not in possession of the relevant facts at the time they waived the Rules and Regulations in this case; and that the landlord and his attorneys are attempting to prevent the tenant's return to his apartment.

MSC: To accept the landlord's and tenant's appeals and remand the case to the Administrative Law Judge for a new hearing.  
(Marshall/Becker: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received a copy of the appeal decision concerning the case at 123 Sanchez #8 (AT2K0083), which was approved and signed by President Wasserman.

#### VII. Director's Report

Executive Director Grubb informed the Board that the contract for performing the Housing Study was signed today with Bay Area Economics.

#### VIII. Old Business

Fair Return/Implementation of Prop. H

The Commissioners discussed a Memorandum from the Executive Director regarding issues involved in the implementation of Proposition H, which passed on the November 7<sup>th</sup> ballot and will take effect some time in mid- to late December. Senior Administrative Law Judges Sandy Gartzman and Tim Lee outlined for the Board the many changes to the rent law effected by Prop. H, which provides that landlords may not pass through the costs of capital improvement work unless they can prove that the increase is necessary to ensure a constitutionally mandated fair return. Since seismic work is exempt from this limitation, but there is inconsistent





terminology used throughout Proposition H to describe seismic work, the Executive Director will be asking the City Attorney for an opinion as to what constitutes seismic work pursuant to the Initiative. He will also be asking for the City Attorney's opinion as to what constitutes a "final" decision, since Proposition H applies to any capital improvement work where no final decision had been issued by April 10, 2000. The Rent Board has issued approximately 400 capital improvement decisions after April 10, 2000, there are several dozen capital improvement cases which have been heard but not yet decided, and landlords are currently continuing to file capital improvement petitions without a fair return analysis, some of which include costs for seismic work. Options for dealing with all of the above-mentioned types of cases, as well as tenants' rights to refunds of any capital improvement passthroughs paid after April 10<sup>th</sup>, are outlined in the Memorandum from the Executive Director, and will be discussed further at the November 28<sup>th</sup> meeting. Until the effective date of the legislation, the Rent Board will continue to process capital improvement petitions as usual.

IV. Remarks from the Public (cont.)

5. Landlord Karen Crommie had a capital improvement petition granted in May. Ms. Crommie said that she is prepared to refund amounts paid by her tenant for capital improvement passthroughs, but inquired as to whether doing so would waive her rights in the event of litigation overturning Prop. H.

6. Landlord David Crommie informed the Board that it took 9 months to get a hearing on his capital improvement petition. If the hearing had been timely scheduled, Mr. Crommie would not have been affected by the passage of Proposition H.

IX. Calendar Items

November 21, 2000 - NO MEETING

November 28, 2000

10 appeal considerations

Old Business: Fair Return/Implementation of Prop. H

December 5, 2000

9 appeal considerations

Old Business: Fair Return/Implementation of Prop. H

X. Adjournment

President Wasserman adjourned the meeting at 9:08 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
November 28, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

**DOCUMENTS DEPT.**

28/00

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOV 22 2000

SAN FRANCISCO  
PUBLIC LIBRARY

Fax 11/21/00

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- V. Consideration of Appeals

A. 745 Haight St. #6 AT2K0181

The tenant appeals the decision denying her claim of unlawful rent increase pursuant to Costa-Hawkins and Rules Section 6.14.

B. 645 Stockton St. #200 & 204 AT2K0182

Two tenants appeal the decision certifying capital improvement costs.

C. 4845 California St. #5 & #1 AT2K0184 & -85

Two tenants appeal the decision granting rent increases based on increased operating expenses and certification of capital improvement costs on the grounds of financial hardship.

D. 553-555 - 28<sup>th</sup> Ave. AL2K0188

The landlords appeal the decision granting a claim of decreased housing services.

E. 2395 - 34<sup>th</sup> Ave., Apt. 7 AT2K0186

The tenant appeals the remand decision denying her claim of financial hardship.

F. 1345-1347 - 25<sup>th</sup> Ave. AL2K0189



The landlord appeals the decision granting claims of unlawful rent increase, arguing that the building meets the criteria for substantial rehabilitation exemption from the Ordinance.

G. 547 Valencia St.

AT2K0187

The tenant appeals the decision denying his claim that the Master Tenant imposed an unlawful rent increase.

H. 610 & 660 Clipper St.

AT2K0190 &  
AL2K0191

The landlord appeals the decision denying certification of certain elevator parts.

I. 156 Ninth Ave. #302

AT2K0194

One tenant appeals the decision certifying capital improvement costs.

J. 2330 Larkin St. #1A & #32

AT2K0192 & -93

Two tenants appeal the decision certifying capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

Fair Return/Implementation of Prop. H

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment



## **ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4641 to place your specific request.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4641。

Se pueden obtener servicios de traducción, ampliación de sonido, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252.4641 para hacer su solicitud.

“Individuals with severe allergies, environmental illness, multiple chemical sensitivity or relate disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.”

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Ray Cabezas, has been designated to coordinate and carry out this agency’s compliance with the nondiscrimination requirement of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845,

### **Know Your Rights Under the Sunshine Ordinance**

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.







**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, November 28, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT

DEC 18 2000

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PUBLIC LIBRARY

I. Call to Order

President Wasserman called the meeting to order at 6:05 p.m.

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Gruber; Hobson; Lightner; Marshall;  
Murphy; Wasserman.  
Commissioners not Present: Mosser.  
Staff Present: Grubb; Wolf.

Commissioner Justman appeared on the record at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 14, 2000.  
(Becker/Lightner: 4-0)

IV. Remarks from the Public

1. Janan New, Director of the S.F. Apartment Association, informed the Board that their organization has been deluged with calls regarding the effects of Proposition H. She asked the Board for guidance as to what to tell property owners, many of whom will not be able to prove that they are not receiving a fair return under the standard mandated by Prop. H. She said that small property owners will not be able to pay the bills for necessary work.

2. Tenant Angelique Duvall also asked about the impacts of Prop. H, and said that tenants too are living with uncertainty.

V. Consideration of Appeals

A. 745 Haight St. #6

AT2K0181

The tenant's petition alleging an unlawful rent increase from \$709.29 to \$1,150.00 was denied because the Administrative Law Judge found that the increase was justified pursuant to Costa-Hawkins and that the landlord had served a valid 6.14 notice. A decrease in services claim regarding an inoperable oven was granted and the landlord was found liable to the tenant in the amount of \$240.00. On appeal, the tenant maintains: that she is a subsequent occupant of the unit whose roommate moved out prior to April 25, 2000; that she received the 6.14 notice 62 days after the landlord had knowledge of her presence on the premises, which is untimely; and



that she was forced to eat out during the time period when she did not have a working oven, which cost considerably more than \$1.90 per day.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

B. 645 Stockton St. #200 & 204

AT2K0182

The landlord's petition for certification of capital improvement costs to 53 of 70 units was granted, in part. The tenant in unit #200 appeals the decision, asserting that: the work was the result of deferred maintenance; and the landlord purchased the building in 1984, and not 1992, as stated in the Decision. The tenant in unit #204 also appeals on the issue of the date of the landlord's purchase of the building; and claims that the amount of the increase is not consistent with the original petition. This tenant also provides evidence that the requisite 30-day notice of rent increase was not provided.

MSC: To deny the appeals except to remand the case to the Administrative Law Judge for a Technical Correction to make the notice of rent increase for the tenant in unit #204 effective on December 5, 1999. (Gruber/Lightner: 5-0)

C. 4845 California St. #5 & #1

AT2K0184 & -85

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses for 3 of 5 units was granted. The tenants in two units appeal the decision on the grounds of financial hardship.

MSC: As to the tenant in unit #5: to accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship; the possibility of the tenant obtaining a roommate to share the rent will be examined. (Marshall/Becker: 5-0)

MSC: As to the tenants in unit #1: to accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship; consideration will be given to available income and resources from family members. (Becker/Marshall: 4-1; Lightner dissenting)

D. 553-555 – 28<sup>th</sup> Ave.

AL2K0188

The landlords' appeal was filed two days late because the landlords relied on the postmark date, rather than the date the Decision was mailed by the Rent Board.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Gruber: 5-0)

The tenants' petition alleging decreased housing services due to the loss of their garage space was granted and the landlords were found liable to the tenants in the amount of \$100.00 per month. The tenants' claim for rent reduction due to the landlord's interference with their right to have pets in the unit was denied because the tenants' two cats are still in the unit. The landlords were cautioned, however, that the former owners had waived the "no pets" provision in the lease. On appeal, the



landlords claim that the tenants provided fabricated evidence; that the tenants "know" people at the Rent Board and there was improper influence; and that the landlords do not speak English sufficiently well to adequately have represented themselves.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

E. 2395 – 34<sup>th</sup> Ave., Apt. 7

AT2K0186

The landlord's petition for certification of capital improvement costs was granted. The tenant's appeal was accepted and remanded for hearing only on the tenant's claim of financial hardship. The tenant's claim was denied because the Administrative Law Judge found that the tenant had provided no evidence that she is medically unable to work during the summers, when she is not teaching; and, even with the capital improvement passthrough, the tenant's income to rent ratio is lower than when she moved in to the subject unit. The tenant appeals the remand decision, claiming that: she would like to teach during the summer months, but does not have the opportunity to do so; the Administrative Law Judge did not request evidence of her medical condition, which she now provides on further appeal; she does not receive regular financial assistance from her son; the ALJ exhibited bias against her; the figures in the Decision regarding her income are incorrect; and one of her classes for next year has been cut, so her income will be even lower.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

F. 1345-1347 – 25<sup>th</sup> Ave.

AL2K0189

The tenants in two units filed petitions alleging unlawful rent increases, which were granted because the Administrative Law Judge found that the premises are not exempt as new construction or as having been substantially rehabilitated. On appeal, the landlords argue that: although the landlords never filed a petition for exemption pursuant to substantial rehabilitation, the building meets the criteria for such exemption; the Rent Ordinance does not require that such a petition be filed, nor impose any time limits on such filing; the Department of Building Inspection acknowledged and authorized the creation of new units in 1987, based on the demolition and rebuilding of a single family dwelling into a two-unit structure; Section 37.9A(b) does not apply to this case, because the tenants who resided in the property were not evicted pursuant to the Ellis Act; the landlords' failure to immediately acknowledge exemption status does not constitute a waiver of the right to assert exemption; and the newly issued Certificate of Occupancy is sufficient to exempt the building from Rent Board jurisdiction.

MSC: To accept the appeal only to remand the case to the Administrative Law Judge for a Technical Correction to clarify that there is no Statute of Limitations on filing for exemption from the Ordinance pursuant to substantial rehabilitation of the premises. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

G. 547 Valencia St.

AT2K0187

The tenant filed a petition alleging that the master tenant, to whom he paid rent, improperly increased his rent in excess of the amount that was being paid to the landlord. The Administrative Law Judge denied the petition, finding that the basement was not a separately rented commercial space but, rather, part of the rental unit. Therefore the amount paid for the basement was properly part of the



base rent and the Master Tenant was collecting no more rent from the subtenants than the amount he was paying to the landlord. On appeal, the tenant claims that: the Administrative Law Judge ignored the Master Tenant's own statement that the basement rent is separate and distinct from the rent paid for the unit; the ALJ failed to request that the Master Tenant provide a copy of the lease agreement; and that canceled checks are insufficient proof.

MSF: To accept the appeal and schedule a hearing before the Board.  
(Lightner/Gruber: 2-3; Becker, Marshall, Justman dissenting)

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

H. 610 & 660 Clipper St.

AT2K0190 &  
AL2K0191

The landlord's petition for certification of capital improvement costs to 11 of 21 units was granted, in part. One tenant appeals the decision on the grounds of financial hardship. The landlord appeals as to the disallowance of three separate items of work done to the building's elevator systems, consisting of a new hydraulic jack assembly, rebuilt pump, and new elevator door motor. The landlord asserts that: these items are not repairs but constitute capital improvements, since they materially add to the value of the building and prolong the life of the elevator, which is part of the property; work that only needs to be done every thirty years or so cannot be considered routine repair and maintenance; and the Decision does not provide an incentive for landlords to maintain, improve and renovate their properties, a stated policy goal of the Ordinance.

MSC: To accept the tenant's appeal and remand the case for a financial hardship hearing; consideration shall be given to income and resources that may be available from family members.  
(Becker/Marshall: 5-0)

MSC: To accept the landlord's appeal and remand the case to the Administrative Law Judge to consider whether any of the elevator work constitutes capital improvements; a hearing will be held only if necessary. If the work is found to constitute capital improvements, any tenant objections shall be considered. (Marshall/Lightner: 5-0)

I. 156 Ninth Ave. #302

AT2K0194

The landlords' petition for certification of capital improvement costs to 11 of 15 units was granted, in part. One tenant appeals the certification of the cost of new hall light fixtures, claiming that the original light fixtures were fully functional and did not need replacement; and that the cost of the replacement fixtures is excessive.

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Becker dissenting)

J. 2330 Larkin St. #1A & #32

AT2K0192 & -93

The landlords' petition for certification of capital improvement costs to 24 of 32 units was granted. Two tenants appeal the decision on the grounds of financial hardship.







MSC: As to the tenant in unit #1A, to accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 5-0)

MSC: As to the tenant in unit #32, to accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. The trust documents must be provided in order to determine whether the corpus can be invaded for the health and welfare of the beneficiary. (Marshall/Becker: 4-1; Lightner dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a copy of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction in the case of Quigg v. City and County of San Francisco (Superior Court Case No. 316928), which challenges the legality of Proposition H.

#### VII. Old Business

##### Fair Return/Implementation of Prop. H

Executive Director Grubb informed the Board that Deputy City Attorney Marie Blits has been out with pneumonia for the last two weeks, which has delayed that office's response to a Memorandum he sent outlining four questions having to do with the implementation of Proposition H. They will try and have something for next week's meeting. Commissioner Becker urged the Board to begin drafting Regulations, which Commissioner Murphy said would be "impossible." Commissioner Lightner stated her opinion that there are many policy questions to be debated first. Commissioner Justman said that he doesn't think the Board should do something that would affect the litigation; Commissioner Marshall stated her belief that not trying to implement the Proposition also affects the litigation. Mr. Grubb will convey a sense of urgency to the Office of the City Attorney.

#### IV. Remarks from the Public (cont.)

3. Landlord's representative Andy Braden, involved in the case at 610 & 660 Clipper St. (AL2K0191), told the Board he was disappointed that the case was sent back for more fact-finding, since he considers the issue to be a policy call. He expressed his belief that the Board's current policy regarding the passthrough of elevator work contradicts the Ordinance, and said that the Board needs to provide guidance on this issue.

4. Tenant Sandra Finnegan said that landlords shouldn't be distressed at not being able to pass through the costs of capital improvements when they get tax breaks and other relief, including reducing potential liability.

#### VIII. Calendar Items

December 5, 2000

9 appeal considerations

Old Business: Fair Return/Implementation of Prop. H

December 12, 2000 - NO MEETING



IX. Adjournment

President Wasserman adjourned the meeting at 8:06 p.m.



**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
December 5, 2000  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

FAV 11/29/00  
DOCUMENTS DEPT.

DEC 9 1 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 614 Lake St. AL2K0198;  
AT2K0199

The landlord and tenants appeal the remand decision granting a claim of decreased housing services.

B. 555 O'Farrell St. #501 & 502 AT2K0195 & -96

Two tenants appeal the decision certifying capital improvement costs on financial hardship and other grounds.

C. 121 States St. AL2K0200

The landlord appeals the decision granting a claim of decreased housing services and determining rent overpayments.

D. 135 - 6<sup>th</sup> St. #410 AL2K0201

The owner of the property appeals the decision granting a claim of decreased housing services because the landlord in the case is actually the Master Lessor of the residential hotel.

E. 1215 Laguna St. #207 AT2K0197

One tenant appeals the decision certifying capital improvement costs and granting rent increases based on increased operating expenses due to financial hardship.



F. 2195 Sacramento St. #301 & 303

AT2K0202

The tenants in one unit appeal the decision certifying capital improvement costs and granting rent increases based on increased operating expenses.

G. 815 O'Farrell #201

AT2K0204

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

H. 3330 Pierce St. #103

AT2K0203

One tenant appeals the decision granting certification of capital improvement costs.

I. 3947 - 18<sup>th</sup> St. #4

AT2K0205

The tenants in one unit appeal the decision certifying capital improvement costs on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

Fair Return/Implementation of Prop. H

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, December 5, 2000 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT

DEC 18 2000

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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
President Wasserman called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Hobson; Justman; Lightner;  
Marshall; Mosser; Murphy; Wasserman.  
Staff Present: Grubb; Wolf.

III. Remarks from the Public

Twenty-three individuals addressed issues pertaining to the implementation of Proposition H, which passed on the November ballot and restricts landlords' ability to pass through the costs of capital improvements, as follows below:

1. Landlord Andrew Long said that the proponents of Prop. H promised that the Initiative did not apply to seismic work, but only Unreinforced Masonry Buildings (UMB's) are exempted; that the concept of fair return is "window dressing" since no one has receipts from 1978; and that making the law retroactive isn't fair.

2. Landlord Inge Weidmann said that she had a capital improvement passthrough approved 25 days after April 10<sup>th</sup>. Ms. Weidmann asked how the law could be changed retroactively and inquired as to the standard for establishing the lack of a fair return.

3. Landlord Karen Crommie spent \$21,000 on a paint job for her 3-flat building. She said that she is considering whether to sell or Ellis her building.

4. Landlord Ken Wright told the Board that it is important that they enact regulations on fair return for small landlords because the larger landlords "don't need the income as much."

5. Landlord Ted Loewenberg suggested that the Board consult with the Office of the City Attorney because, in his opinion, the Rent Board is being put in the position of "price-fixing."

6. Tenant William Prout said that much of what has been considered capital improvements constitutes necessary replacements. He asked that the Rent Board "respect the will of the voters" and expressed concern that landlords will go through a "back-door political process."



7. Landlord Marina Franco asked that the Board consider the hardships on small owners without liquid assets. Ms. Franco believes that many landlords will now postpone maintenance, which will turn buildings into "eyesores."

8. Landlord Marian Halley asked about the effect of appeals on the April 10<sup>th</sup> "final decision" date, especially if the appeal is based on hardship, or the tenant was ultimately to lose the appeal. Ms. Halley believes that the Tenants' Union was urging tenants to file appeals and drag out the process.

9. Patrick Richard, attorney for the tenants in the case at 614 Lake St. (AL2K0198 & AT2K0199), said that the appellants have now been before the Board twice and asked the Board to "let the case lie."

10. Rebecca Graf of the Housing Rights Committee said that the fair return provisions of Proposition H were specifically included so that small landlords would receive a fair return, and that Prop. H was intended to stop abuses, particularly by larger landlords. She urged the Board to not "drag its feet" on implementing Proposition H.

11. Robert Haaland of the Housing Rights Committee reminded the Board that Prop. H passed with 57.3% of the vote and urged the Board to "cautiously but expeditiously" get on with their duty to draft regulations.

12. Tenant Tommi Avicoli Mecca said that "speed is of the essence". He said that tenants are cynical and asked to be proved wrong in distrusting the political process.

13. Tenant Jeremy Gribler said that he received a capital improvement passthrough for re-painting and re-staining the building, which he believes constitutes maintenance.

14. Landlord Sue Chang owns a 4-unit building where all of her tenants have higher incomes than she does. She said that she needs to upgrade the building but makes no profit. There are currently no circuit breakers, which could pose a hazard.

15. Attorney Greg Blaine inquired as to whether the Board would make public information received from the City Attorney so that the public could conduct research.

16. Tenant Mara Mapp asked why tenants should pay the landlord's mortgage, as well as for deferred maintenance.

17. Ted Gullickson of the Tenants' Union told the Board that it is their duty and obligation to immediately adopt regulations pertaining to fair return.

18. Landlord Nancy Tucker asked how the Board will differentiate between large and small landlords, since they are in business for different reasons, and are faced with different economics.

19. Landlord Peter Holden said that Prop. H is contradictory regarding dates and that the Rent Board web site cites the wrong Building Code chapters.

20. Tenant Carolyn Blair said that her landlord makes \$10-14,000,000 but asked the Administrative Law Judge to issue a decision regarding her capital improvements by November 7<sup>th</sup>.



21. Tenant Rena Diamond said that she received a rent increase of almost 20% due to capital improvements and annual increases, and that her landlord has had the benefit of a lot of turnover in the building in the past year.

22. Landlord Winston Montgomery reminded those assembled that "housing's not free."

23. Miguel Wooding of the Tenants' Union and Eviction Defense Collaborative said that he is "hesitant to urge the Rent Board to do anything." However, he believes it makes no sense to wait for the outcome of the litigation, and that it should be the other way around.

#### IV. Consideration of Appeals

##### A. 614 Lake St.

AL2K0198; AT2K0199

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable in the amount of \$100 per month due to the loss of the right to park in the driveway. The landlord's appeal was accepted and the case was remanded to the Administrative Law Judge to determine whether it was possible to legally park in the driveway. If not, no rent reduction would be allowed. If so, the ALJ was instructed to re-evaluate the value of such parking. In his Decision on Remand, the Administrative Law Judge found that the tenants could park legally in front of the driveway, and that the value of this service was \$80 per month. Both the landlord and tenants appeal the remand decision. The tenants claim that they proved the value of loss of laundry facilities and parking in the driveway to be more than the amount granted by the Administrative Law Judge. The landlord maintains that: it was proved that parking in the driveway constituted an illegal act which, therefore, cannot be a housing service; there is no evidence that the agreement with the prior landlord included the tenants' being allowed to park in front of and block the driveway; the valuation placed on the service by the Administrative Law Judge is too high; and the amount the landlord is held liable for in the Decision is incorrect.

MSC: To deny both the landlord's and tenants' appeals.  
(Becker/Marshall: 3-2; Gruber, Lightner dissenting)

##### B. 555 O'Farrell St. #501 & 502

AT2K0195 & -96

The landlord's petition for rent increases based on increased operating expenses and certification of capital improvement costs to the tenants in twenty units was granted, in part. Two tenants appeal the decision. The tenant in unit # 501 appeals on the grounds of financial hardship. The tenant in unit #502 also alleges hardship, as well as asserting that the replacement of his toilet should not be considered a capital improvement, and that the costs of painting the building are excessive. The appeal of the tenant in unit #501 was continued in order for the Deputy Director to draft a letter and obtain additional information regarding the tenant's interest income and available resources. The Board passed the below motion regarding the appeal of the tenant in unit #502:

MSC: To deny the appeal on substantive grounds, but to accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship; medical evidence shall be furnished by the tenant. (Lightner/Becker: 5-0)







C. 121 States St.

AL2K0200

The landlord's appeal was filed 13 days late because the landlord was "in shock" upon receiving the decision, and spent time consulting with Rent Board staff and an attorney prior to filing the appeal.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Lightner: 5-0)

The tenant's petition alleging decreased housing services due to a leaking roof and ancillary water damage was granted, in part, and the landlord was found liable to the tenant in the amount of \$219.00. Additionally, the landlord of this Proposition I Affected Unit was found liable to the tenant in the amount of \$5,534.00 due to his having imposed a rent increase based on the past rent history of the unit without filing the requisite petition. On appeal, the landlord requests that the Board reconsider the portion of the Decision pertaining to rent overpayments because: the tenant had not been given a rent increase for nine years prior to the increase based on the past rent history of the unit; and the landlord was advised as to the legality of the subject increase twice by Rent Board staff.

MSC: To accept the appeal and remand the case in order to allow the landlord to file the requisite petition nunc pro tunc; a hearing will be held only if necessary. If granted, the rent increase based on the Past Rent History of this Proposition I Affected Unit shall be effective July 1, 1998. (Lightner/Gruber: 4-1; Marshall dissenting)

D. 135 – 6<sup>th</sup> St. #410

AL2K0201

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$316.50. On appeal, the landlord claims that the tenant incorrectly identified the landlord in this action, and that the individual named is not the individual who has been the Master Lessor of the property for the last four years. After discussion, it was the consensus of the Board to continue this matter in order for the Deputy Director to contact the appellant and obtain a Declaration of Non-Receipt of Notice of Hearing.

E. 1215 Laguna St. #207

AT2K0197

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses to 30 of 36 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Lightner/Becker: 5-0)

F. 2195 Sacramento St. #301 & 303

AT2K0202

The landlords' petition for certification of the costs of seismic retrofit of the building and a new roof, in addition to 7% base rent increases based on increased operating expenses, was approved for 13 of 16 units. Two tenants, who reside jointly in two units in the building, appeal on the grounds that: an amended Operating and Maintenance Expense schedule was not provided to the tenants prior to the hearing, which resulted in the tenants having been denied their due process rights;



information regarding the legality of a rent increase given in 1985 is now available, which could affect the amount of the capital improvement and operating and maintenance expense increases; and the Board should exercise their discretion to waive the Regulations and allow for a longer and more reasonable amortization period for the seismic retrofit.

MSC: To recuse Commissioner Becker from consideration of this appeal.  
(Marshall/Lightner: 5-0)

Since the tenants filed a substantially amended appeal one week prior to this evening's meeting, it was the consensus of the Board to grant the landlord's request for a continuance.

G. 815 O'Farrell #201

AT2K0204

The landlords' petition for certification of capital improvement costs to 26 of 45 units was granted. One tenant appeals on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Lightner: 5-0)

H. 3330 Pierce St. #103

AT2K0203

The landlords' petition for certification of capital improvement costs to 13 of 21 units was granted. One tenant appeals the passthrough of the costs of remodeling the shower in her unit, asserting that: the work was necessitated by the prior landlord's deferred maintenance; the work was written off by the prior owner as a repair, rather than capital improvement, which should bar the current owner from alleging that the repair constitutes a capital improvement; the costs of the work were not proved to be reasonable; since the contractor did not paint or clean up, these costs should be deducted from the total cost of the work; the costs should not be borne by one tenant only, since the lack of flooding in the future will protect the structural integrity of the building; an independent estimator should have inspected the work; the amortization period should reflect the amount of time the tenant has lived in the building; and the tenant does not waive her right to appeal on the basis of financial hardship in the future.

MSC: To accept the appeal and remand the case to exclude the parts of the shower remodeling work attributable to deferred maintenance, specifically, the installation of a new wood frame and new frame work inside and outside the wall; a hearing will be held only if necessary. If the tenant wishes to file an appeal based on financial hardship, she must do so within 15 days of mailing of the Decision on Remand. (Lightner/Gruber: 5-0)

I. 3947 – 18<sup>th</sup> St. #4

AT2K0205

The landlord's petition for certification of the cost of painting the building to each of six units was granted, resulting in a monthly passthrough in the amount of \$33.41. The tenants in one unit appeal on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenants' claim of financial hardship.  
(Becker/Lightner: 5-0)



V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a Privileged and Confidential Memorandum from the Office of the City Attorney concerning issues related to the implementation of Proposition H.

VI. Old Business

Fair Return/Implementation of Prop. H

The Board will discuss this issue at the December 19<sup>th</sup> meeting, which will be held in City Hall, Room 263 (Board of Supervisors' Committee Room) at 6:00 p.m.

VII. New Business

The Deputy Director brought to the Board's attention a letter received from the Law Offices of Andrew Zacks asking to withdraw a Notice of Intent to Withdraw Residential Units from the Rental Market that had been filed with the Board. The tenant in the case had received compensation and executed a Move Out Agreement and Release of Claims and the owner of the property therefore did not wish for a notice of constraints to be recorded against the property. Since the Ellis Act is silent as to the ability of an owner to rescind an Ellis notice once it is filed with the public entity, an opinion will be sought from the Office of the City Attorney.

VIII. Calendar Items

December 12, 2000 - NO MEETING

December 19, 2000

7 appeal considerations (1 cont. from 12/5/00)

6:00 Executive Session: Fair Return/Implementation of Prop. H  
Old Business: Fair Return/Implementation of Prop. H

IX. Adjournment

President Wasserman adjourned the meeting at 8:07 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
December 19, 2000

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

**Room 263, Board of Supervisors Committee Room  
CITY HALL**

POLLY MARSHALL  
VICE-PRESIDENT

**AGENDA**

FOX 12/14/00  
DOCUMENTS DEPT.

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
FREDERICK HOBSON  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Vote on Whether to Go Into Closed Session Regarding the Case of Quigg v. Rent Board (Superior Court Case No. 316928) (Pursuant to S.F. Administrative Code Section 67.11(a))
- V. Closed Session re Quigg, supra (Pursuant to Government Code Section 54956.9(a))
- VI. Vote on Whether or Not to Disclose and Possible Disclosure of Any/All Conversations Held in Closed Session Regarding Quigg, supra (Pursuant to S.F. Administrative Code Section 67.11(a))
- VII. Report on Any Actions Taken in Closed Session Regarding Quigg, supra (Pursuant to Government Code Section 54957.1(a)(2) and S.F. Administrative Code Section 67.14(b)(2))
- VIII. Remarks from the Public

**NOTE:** Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. Consideration of Appeals

A. 135 - 6<sup>th</sup> St. #410

AL2K0201  
(cont. from 12/5/00)

The landlord appeals the decision granting a claim of decreased housing services because the owner of the property is improperly named as the landlord in the case, when the landlord is actually the Master Lessor of the residential hotel.

B. 3459 Divisadero St.

AT2K0206

The tenant appeals the decision determining the current lawful rent for the unit.





C. 2000 Broadway #703

AL2K0207

The landlord appeals the decision granting claims of unlawful rent increase pursuant to Costa-Hawkins and substantially decreased housing services.

D. 929 Pine St. #1

AT2K0208

The tenant appeals the decision denying a claim of unlawful rent increase because it was found that the tenant no longer permanently resides in the unit.

E. 698 Bush St. #408

AT2K0209

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the properly noticed hearing.

F. 134 Albion St.

AT2K0210

The tenant appeals the decision denying a claim of decreased housing services.

G. 815 O'Farrell St. #608

AT2K0211

The tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

- X. Communications
- XI. Director's Report
- XII. Old Business
- Fair Return/Implementation of Prop. H
- VIII. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.10(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- XIII. New Business
- XIV. Calendar Items
- XV. Adjournment



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19/00  
SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT MAYOR  
STABILIZATION & ARBITRATION BOARD,

Tuesday, December 19, 2000 at 6:00 p.m. at  
Room 263, City Hall

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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JAN - 3 2001

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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY

President Wasserman called the meeting to order at 6:11 p.m.

DAVID GUSTAV GRUBER  
FREDERICK HOBSON

II. Roll Call

ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Commissioners Present: Becker; Gruber; Hobson; Lightner; Marshall;  
Mosser; Murphy; Wasserman.  
Staff Present: Grubb; Lee; Wolf.

Commissioner Justman appeared on the record at 6:24 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 28<sup>th</sup> and December 5,  
2000. (Gruber/Lightner: 5-0)

IV. Vote on Whether to Go Into Closed Session Regarding the Case of Quigg v. Rent Board (Superior Court Case No. 316928) Pursuant to S.F. Administrative Code Section 67.11(a)

President Wasserman read the following Tentative Ruling issued by Judge Robertson this afternoon: "Plaintiffs' (Petitioners') motion for preliminary injunction is granted without prejudice to Respondents seeking modification or dissolution after adoption of appropriate regulations eliminating the unconstitutional effect of this Proposition." It is anticipated that a final ruling will be issued by Judge Robertson tomorrow or soon thereafter, which will provide further guidance on which aspects of Proposition H the Judge considers to be unconstitutional. The Board then voted as follows:

MSC: To go into closed session. (Marshall/Gruber: 5-0)

V. Closed Session re Quigg, supra, Pursuant to Government Code Section 54956.9(a)

The Board went into closed session from 6:15 to 6:45 p.m. with Deputy City Attorneys Marie Blits and Rafal Ofierski to discuss the case of Quigg v. Rent Board (Superior Court Case No. 316928).

VI. Vote on Whether or Not to Disclose and Possible Disclosure of Any/All Conversations Held in Closed Session Regarding Quigg, supra, Pursuant to S.F. Administrative Code Section 67.11(a)



President Wasserman explained that, as the Board will be involved in litigation concerning this case for quite some time, it was felt by all members of the Board that piecemeal disclosure of the contents of privileged conversations with the City Attorney could lead to the Board's losing its privilege. Therefore, the Board voted as follows:

MSC: Not to disclose conversations held in closed session regarding Quigg, supra, to the extent that such conversations are protected by the attorney/client privilege.  
(Gruber/Justman: 5-0)

VII. Report on Any Actions Taken in Closed Session Regarding Quigg, supra, Pursuant to Government Code Section 54957.1(a)(2) and S.F. Administrative Code Section 67.14(b)(2)

President Wasserman reported that the Board consulted with counsel and asked for additional advice from the Office of the City Attorney upon issuance of the final ruling in the case of Quigg v. Rent Board, supra.

VIII. Remarks from the Public

Twenty-two persons addressed the Board regarding implementation issues relating to Proposition H, as follows below:

1. Small landlord and attorney Greg Blaine urged the Board to promulgate Rules that apply a fair return analysis to the dollars expended on capital improvements, and not to the entire property, in order to look at the return on invested capital.

2. Tenant George Buffington said that he supports Prop. H and would like to see it enacted with only absolutely necessary deletions and amendments. He thanked the Board for their efforts.

3. Robert Pender of the Tenants' Network reminded the Board that Parkmerced got a large capital improvement passthrough approved approximately 10 years ago, but the tenants got it reduced. Mr. Pender says that he would have to move if he were to receive another large rent increase.

4. Tenant Arnold Cohn told the Board that they were given a mandate by the voters to implement Proposition H, and it was their responsibility to come up with an alternative base year since "no one has records back to 1978."

5. Robert Haaland of the Housing Rights Committee said that their organization has seen many heartbreaking stories having to do with capital improvement passthroughs. He asked that the Board be fair to both tenants and landlords, and provide landlords with a fair return.

6. Rebecca Logue-Bovee of the Housing Rights Committee asked the Board to go forward with implementing regulations that are fair to landlords and that will be upheld in the courts.

7. Tenant Rob Eshelman said that the voters overwhelmingly approved Prop. H and asked that the Board be fair to both sides.





8. Carolyn Blair of the Housing Rights Committee and Tenants' Union told the Board that she worked hard to get Proposition H on the ballot.

9. Alma Morris, a tenant at 1340 Lombard Street, told the Board how the tenants at that complex experienced two years of renovation work, and then a prospective 100% capital improvement passthrough.

10. Landlord Sue Chang owns a 5-unit building in the Marina, and doesn't believe that tenants mean it when they say they want to be "fair." Ms. Chang told the Board that her family members couldn't move in to the building because of Proposition G, and now she cannot afford to make necessary electrical improvements because of Proposition H.

11. Janan New, Director of the S.F. Apartment Association, said that issues pertaining to "fair return" are extremely complicated and urged the Board to "slow down" in order to understand the best approach. Since the Board hasn't looked at fair return since 1983, and the economy has significantly changed since then, she recommended that the Board call in economists and outside experts.

12. Lorraine Calcagni, a tenant at 1360 Lombard Street, told the Board that her landlord spent \$8.4 million, which resulted in a passthrough per tenant of \$98,000, or \$818 per month, an average increase of 130% over current rent. She said that this situation generated Proposition H. The landlord has an additional \$1.2 million passthrough coming.

13. Landlord Chuck Rategan owns a two-unit building. Prior to the passage of Proposition H, Mr. Rategan was considering adding a deck when he does necessary stairway work. Now, he will do the minimum solution only, and simply provide egress from the building, even if his tenants would prefer having a deck.

14. Landlord Bill Quan said that use of 1978 as a base year is unfair because prior owners may have died, or moved away. He also does not believe that new owners should have to refund capital improvement passthroughs because investment decisions in buildings were predicated on existing rent rolls.

15. Landlord representative Michelle Horneff thanked the Board for "asking questions and trying to ascertain the proper course before moving forward."

16. Landlord Karen Crommie told the Board that she received a Decision granting a capital improvement passthrough in May, which is now invalid. She asked what language she should use to refund the amounts paid by the tenants, without forfeiting her rights should Proposition H be overturned by the courts. She also asked who would take responsibility for the 9-month delay in getting a hearing on her petition, which resulted in her being affected by the restrictions of Prop. H.

17. Landlord Marian Halley said that the Board should distinguish between large and small landlords, if possible. She said that the Edwardians and Victorians for which San Francisco is famous are owned by small landlords, and they should be able to keep them beautiful. She also said that 60% of the CPI is less than the allowable annual increase in other jurisdictions.

18. Landlord Andrew Long said that his brick building needs a new foundation, but he won't do the work if he can't pass through the cost. He said he will pay for earthquake insurance instead, or Ellis the building and sell the units as TIC's.



19. Landlord Tess Welborn said that she spent \$24,000 to paint and upgrade her building. Ms. Welborn took out a 9% loan to do the work, for which she will receive no return. She feels that these issues should have been considered after the issuance of the Housing Study.

20. Landlord Peter Holden owns a 4-unit building. He believes that the promises that were made of a fair return and seismic retrofit work being excluded were "illusory." He said that "improvements have to be made."

21. Landlord Nancy Tucker said that tenants only voted for Prop. H to save themselves money. She asked whether fair return would be per unit, per building, or based on all properties owned by a landlord.

22. Tenant Charlie Ming said that landlords are investors, and their investment is unsecured. He does not believe that the cost of improvements should be passed on to tenants because the property has an increased value. He suggested that landlords obtain home equity loans to finance the work.

#### IX. Consideration of Appeals

A. 135 – 6<sup>th</sup> St. #410

AL2K0201  
(cont. from 12/5/00)

The landlord's appeal was filed two months late because, allegedly, the individual named by the tenant on the petition is not the Master Lessor of the property. Therefore, the actual landlord in this case maintains that he did not receive notification of any of the proceedings.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Lightner: 5-0)

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$316.50. On appeal, the landlord claims that the tenant incorrectly identified the landlord in this action, and that the individual named is not the individual who has been the Master Lessor of the property for the last four years. Consideration of this matter was continued from the meeting on December 5<sup>th</sup> in order for the landlord to furnish the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Lightner: 5-0)

B. 3459 Divisadero

AT2K0206

The landlord filed a petition seeking a determination of the current lawful base rent for the unit, which was found to be \$1,112.00. On appeal, the tenant maintains that: he was unable to provide copies of rent checks for the years 1992 and 1993 because his credit union destroys all checks after seven years; there are errors in the Decision as to the rent history and the circumstances surrounding the inception of the tenancy; the tenant has been paying an unlawful increase in the amount of \$100.00 per month since May, 1993, when he obtained a roommate; and the September 1995 lease is unsigned and should not be considered binding.



MSC: To recuse Commissioner Hobson from consideration of this appeal. (Marshall/Lightner: 5-0)

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Marshall dissenting)

C. 2000 Broadway #703

AL2K0207

The tenants' petition alleging an unlawful rent increase from \$3,106.04 to \$4,000.00 was granted because the Administrative Law Judge found that the petitioners were tenants who had a contractual relationship with the landlord, and not subtenants subject to an increase pursuant to the provisions of Costa-Hawkins. Additionally, a rent reduction in the amount of \$200 per month in the event that the tenants lose their parking spaces in the building was granted. A claim of decreased housing services due to loss of roof access was denied. The landlord appeals, arguing that: the tenants are assignees and, therefore, an increase is warranted under Costa-Hawkins; the landlord did not lose the right to a Costa-Hawkins increase by conducting credit and background checks and making the tenants sign a lease agreement; there is no evidence of a waiver of rights by the landlord in this case; and there is no reduction in services because the parking became decontrolled at the same time that the apartment rent became decontrolled. The landlord also argues in the alternative that, if the parking spaces are deemed to be controlled, the rent reduction granted must be at the controlled, rather than market, rent.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

D. 929 Pine St. #1

AT2K0208

The tenant's petition alleging an unlawful rent increase from \$842.35 to \$1,320.00 was denied because the Administrative Law Judge found that the original occupant under the rental agreement no longer permanently resides on the premises. On appeal, the tenant claims that: the testimony of the subtenant in the unit is self-serving and should not be relied upon because the subtenant desires the unit for himself; the tenant travels often but has not vacated the subject premises; and the indicia for determining "principal place of residence" outlined in Rules Section 12.14 should be used in this case.

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Becker dissenting)

E. 698 Bush St. #408

AT2K0209

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant provides evidence that she suffered an acute asthma attack and needed medical attention on the day of the scheduled hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/Becker: 5-0)

F. 134 Albion

AT2K0210

The tenant's petition alleging decreased housing services because of discomforts suffered in conjunction with temporary scaffolding in front of the building was denied because the Administrative Law Judge found the problems not to be substantial.



On appeal, the tenant asserts that: testimony and exhibits presented by the tenant at the hearing should have been addressed by the Administrative Law Judge in the Decision; the scaffolding was only removed by the landlord after a call from a Building Inspector; the landlord retaliated against the tenant by removing notices to the mail carrier taped to the tenant's mailbox; and there are factual errors in the Decision.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Hobson dissenting)

G. 815 O'Farrell St. #608

AT2K0211

The tenant's appeal was filed 11 days late because the tenant is an elderly veteran who did not realize he could appeal the Decision until he spoke with another tenant in the building.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Lightner: 5-0)

The landlord's petition for certification of capital improvement costs to 26 of 45 units was granted. One tenant appeals the Decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Lightner/Becker: 5-0)

#### X. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received copies of pleadings in the case of Quigg v. Rent Board.

#### XI. Director's Report

Executive Director Grubb informed the Board that the annual allowable increase amount commencing March 1, 2001 through February 28, 2002 will be 2.8%.

#### XII. Old Business

Fair Return/Implementation of Prop. H

Discussion of this issue was continued to the meeting on January 2, 2001, at which time the Board will have the Court's final ruling granting the motion for preliminary injunction in the case of Quigg v. Rent Board, supra.

#### XIII. Calendar Items

December 26, 2000 - NO MEETING

January 2, 2001

11 appeal considerations (1 cont. from 12/5/00)

Old Business: Fair Return/Implementation of Prop. H





January 9, 2001

Executive Session: Quigg. v. S.F. Rent Board

(Superior Court Case No. 316928)

Old Business: Fair Return/Implementation of Prop. H

January 16, 2001

10 appeal considerations (1 cont. from 12/5/00)

Old Business: Fair Return/Implementation of Prop. H

XIV. Adjournment

President Wasserman adjourned the meeting at 8:00 p.m.









